

THE LEE TRIAL!

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AN EXPOSE OF THE

PREFACE

Mountain Meadows Massacre,

BEING A

CONDENSED REPORT OF THE PRISONER'S STATEMENT, TESTIMONY
OF WITNESSES, CHARGE OF THE JUDGE, ARGUMENTS
OF COUNSEL, AND OPINIONS OF THE
PRESS UPON THE TRIAL.

BY THE SALT LAKE DAILY TRIBUNE REPORTER.

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THE LIFE TRIAL

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BY THE DAILY LIFE TRIAL

THE LIFE TRIAL COMPANY
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allies

Klingensmith and Joel White were the objects of severe animadversion by all the members of the prisoner's counsel, the design being to break down their testimony. Both of these men having taken part in the assassination of the betrayed victims at Mountain Meadows, a heavy stigma unavoidably attached to their names. But although their moral guilt admits of great extension, as it is clearly shown that they were blind instruments in the hands of fanatical teachers, and mistakenly supposed that in obeying their religious duty to God. The law can admit no such plea, but there is weight in the remark of a certain military officer now stationed in Utah, who declares that "you cannot punish a whole people."

THE TRIBUNE PRINTING COMPANY have been induced to issue this pamphlet edition of the Lee Trial to satisfy the demand which their Daily and Weekly issue was unable to meet. The report furnished herewith is by no means full, as a complete transcript of the testimony and arguments of counsel would swell this publication into the dimensions of a volume. The interest in the Lee Trial centers in the extraordinary character of the developments made upon the witness stand. Philip Klingensmith and Joel White, both participants in the butchery, were the principal witnesses, and the story told by these men, although differing slightly in minor details, was so coherent and substantially similar, that all who heard their testimony could not fail to be impressed with its truth. They were further corroborated by fully a score of other witnesses, who in various ways brought out and illustrated numerous subsidiary facts either not known to the two first-named witnesses, or not fully brought out in their examination. The result of the trial, as shown by the unanimous verdict of the entire newspaper press of the United States, has been to clearly establish the fact that the Arkansas emigrant company, numbering about one hundred and thirty souls, were butchered at Mountain Meadows by the Iron County regiment of the Mormon militia, known as the Nauvoo Legion, assisted by Indian allies, in obedience to "Orders" issued by the higher ecclesiastical authorities. John D. Lee being placed upon trial, of course, the object of the prosecution was to produce testimony to convict the prisoner. This the reader of the following pages will admit was unquestionably accomplished; but the jury being composed two-thirds of Mormons, who are bound by their oaths in the Endowment House, not to aid the prosecution of a brother Saint in any Gentile Court, the testimony was not allowed to have any weight in their minds, and the result of the trial was a disagreement of the jury. The only remedy for this block upon the wheels of justice, rests with Congress. If the laws are to be executed in Utah and high crimes punished, the Act of 1874

must be so amended as to admit of a jury being impaneled who will find a verdict according to the law and the testimony, without regard to any secret religious oaths.

Klingensmith and Joel White were the objects of severe animadversion by all the members of the prisoner's counsel, the design being to break down their testimony. Both of these men having taken part in the assassination of the betrayed victims at Mountain Meadows, a heavy stigma unavoidably attaches to their names. But although, in fact and in the eyes of the law, guilty of the heinous crime of murder, their moral guilt admits of great extenuation: as it is clearly shown that they were blind instruments in the hands of fanatical teachers, and mistakenly supposed that in obeying "counsel" they were performing their religious duty to God. The law can admit no such plea, but there is weight in the remark of a certain military officer now stationed in Utah, who declares that "you cannot punish a whole people." Still the object of law is to prevent crime and punish criminals; to gain the former end the ecclesiastical despotism existing in this Territory must be subverted; and to bring criminals to justice, an amended jury law is imperatively needed. The report of the Lee Trial has awakened the people of the United States to the legislative wants of Utah, and it is reasonable to believe that Congress in its next session will devote a proper share of intelligent attention to this IMPERIUM IN IMPERIO—the Kingdom of God established in the heart of the American continent.

SALT LAKE CITY, August, 1875.

TRIAL OF JOHN D. LEE,

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MOUNTAIN MEADOWS ASSASSIN.

CHAPTER I.

INTRODUCTORY.

The massacre of an Arkansas emigrant company, numbering about one hundred and twenty souls—men, women and children—was perpetrated at Mountain Meadows, Washington County, Utah Territory, on or about September 16th, 1857. At the time of the commission of this bloody deed, Utah was completely isolated from the world, and as the work of extermination was made so thorough that none survived to tell the tale, except a few children too young to have knowledge of the tragedy, a dread mystery enshrouded the whole occurrence, and nothing was known of it for a considerable time, except in the few sparse communities living in the neighborhood, and the few guilty persons, leaders in the Mormon Church, who had conceived and plotted the assassination. Travelers along the road, passing to and from California, saw first the bodies of the slain as they lay festering in the sun; soon the wolves and the crows consumed all that was perishable of the remains, and a collection of bleaching bones was all that met the eye to tell the passing emigrant of the treacherous deed of blood that had been enacted in that lonely retreat. At first it was supposed the Indians had massacred the company, and the story was told to the world as a caution to those designing to cross the plains, to start on their perilous journey prepared to repel the attacks of the lurking savage; but so terrible a secret could not for ever be kept from the knowledge of mankind, and in due time the intimation was whispered about that the Mormons had had a share in the butchery.

The first judicial investigation into this Massacre, was instituted by Judge Cradlebaugh, a District Judge of Utah, in March, 1859, eighteen months after the occurrence. Summoning a Grand Jury in Provo, this jurist called the attention of that body to a number of assassinations that had lately been committed in Utah, mentioning the massacre at Mountain Meadows among a list of similar crimes, and giving it as his opinion that these acts of vengeance were "done by authority," and stating in his charge "there was some person high in the estimation of the people" to whom the responsibility might be traced. Testimony

was produced which implicated a number of prominent men in the Mormon Church in the butchery, but a criminal apathy possessed the minds of the jurors, and they refused to find indictments. After laboring with this perverse body two weeks, the Judge discharged them, with these pithy remarks :

If it is expected that this Court is to be used by this community, as a means of protecting it against the peccadilloes of Gentiles and Indians, unless this community will punish its own murderers, such expectations will not be realized. It will be used for no such purpose. When this people shall come to their reason, and manifest a disposition to punish their own high offenders, it will then be time to enforce the law also for their protection. If this Court cannot bring you to a proper sense of your duty, it can at least turn the savages held in custody loose upon you."

From that time until the passage of an Act of Congress, "In relation to Courts and Judicial Officers in the Territory of Utah," approved June 23d, 1874, a clash between the Federal and Territorial authorities in Utah has rendered impossible all attempts to properly inquire into this crime and bring the guilty parties to justice. But the Act above-named having prescribed a course by which Grand and Petit Juries can be summoned, the Judge of the Second Judicial District of Utah, Hon. Jacob S. Boreman, lost no time in charging the first Grand Jury impaneled under this law, to inquire into the Mountain Meadows Massacre, and find true bills of indictment against those persons who were shown to have taken a criminal part in this wholesale assassination. The result of the inquiry was a joint indictment against William H. Dame, John D. Lee, Isaac O. Haight, John M. Higbee, Philip Klingensmith, William C. Stewart, Samuel Jukes, George Adair, Jr., and some others, for conspiracy and murder. Warrants were issued for the arrest of these parties, and after a vigorous search for the offenders, two of the parties named, John D. Lee and William H. Dame, were apprehended and placed in custody to await trial.

After various delays in consequence of the difficulty in procuring witnesses willing to testify, the trial was set for July 12th, 1875, in the Second District Court held at Beaver in Southern Utah. Hon. William C. Carey, United States District Attorney, assisted by R. N. Baskin, esq., of Salt Lake and Judge Whedon of Beaver, prosecuted the case for the people; the prisoner's counsel consisted of Messrs. Sutherland & Bates, Judge Hoge, Wells Spicer, John McFarlane and W. W. Bishop, the last named of Pioche. At eleven o'clock on the day named, the Court opened, Judge Boreman presiding. The roll of jurors was called by the Clerk, thirty-two answered to their names, who being examined on their *VOIR DIRE*, were all found qualified to serve, save one, an alien. Further progress was delayed for a few days, in consequence of the absence of witnesses, and also of a negotiation entered into by the Counsel on both sides, based upon the expressed willingness of the prisoner Lee to make a full confession and thus turn States evidence. The prosecuting officers in dealing with this great crime, were less desirous to convict and punish the prisoner than to get at the long concealed facts of the case. The impression which weighed upon Judge Cradlebaugh's mind, that "there was some person (or persons) high in the estimation of the people" at the bottom of the affair, had since grown to be a settled conviction, and as Lee had been a subordinate actor in the Massacre, it was thought that the ends of justice would be attained by releasing this man if he was honest

in his avowed resolution to "tell it all." Further plausibility was lent to this belief by the assurance given by some members of Lee's counsel that the prisoner had lost all fealty to the Church because of the injustice practiced towards him by his ecclesiastical superiors. All the opprobrium of this revolting crime had settled upon his shoulders. "The butcher Lee" was the prominent figure in the narrative of every writer who treated upon the subject. Being a true Saint, he had gone extensively into plural marriage, and his multitudinous household comprised eighteen wives, and nearly or quite three score children. All these were said to be painfully affected at the infamy which rested upon the family; and they added their entreaties for a full and honest confession in order that the truth might be known and blame rest where it was due.

On Wednesday, the 14th, Mr. Spicer moved that his client's trial be set for the following Monday. The District Attorney moved that the trial of Dame be set down for the same day. The Court inquired if the prosecution would be ready to take up Lee's case on the day named. Mr. Carey thought he could give reasonably positive assurance that he would be ready. He was waiting for one or two material witnesses, and had no doubt they would be in by that time. Upon this the Court instructed the witnesses on both sides to be present in court on Monday, and the jurors were discharged till Friday.

CHAPTER II.

LEE'S CONFESSION.

The same trouble which Judge Cradlebaugh at an earlier period in Mormon history had so feelingly deplored, beset District Attorney Carey at the present time—the well-nigh impossibility of procuring witnesses to testify. "This court," says the first-named, "has had occasion to issue bench warrants to arrest persons connected with the Parrish murders, has had them brought before it and examined; the testimony presents an unparalleled condition of affairs. It seems that the whole community were engaged in committing that crime. Facts go to show it. There seems to be a continued effort on the part of the community to screen the murderers from the punishment due them for the murders they have committed." The secretiveness of the Mormon character renders proof of glaring crime a work of extreme difficulty. Upwards of one hundred subpoenas had been issued and placed in the hands of the proper officers for service; a number had obeyed the summons, but still some of the most material witnesses were absent. Philip Klingsmith, formerly a Mormon Bishop of Cedar City, a participant in the tragedy, and now desirous to ease his conscience by confessing all the details of the massacre, had failed to put in an appearance. Joel White, another Nauvoo legionary, who was present at the scene, and a third witness named Hawley, also an active participant, were likewise among the missing. Officers were then in pursuit, and their speedy return with these men was confidently looked for. But should they elude the vigilance of the officers, evidence to convict would be wanting, and the prosecution would become an object of derision.

But, for the relief of the Prosecuting Attorney, a telegram was placed in his hand by United States Marshal Maxwell, that same forenoon, informing him of the approach of the witness Klingensmith, in the custody of a deputy, and a day or two after, Joel White arrived, having been induced to entrust himself in a court of law, through the assurances of safety made him by the noted Bill Hickman, then acting as special Deputy Marshal. With these witnesses to place on the stand, Mr. Carey felt secure, and at the next meeting of the court he announced himself ready for trial.

The remainder of the week was devoted by the prisoner Lee to the preparation of his "statement." The terms agreed upon by the counsel on both sides were that the prisoner should make a clean breast of it. It was known that the assassins of the emigrant company were mere instruments of vengeance in the hands of their fanatical leaders; the crime had been planned by parties who did not appear upon the scene. "Orders" had been issued to the local Church authorities; and the object of the prosecution in consenting to accept Lee's statement and "nolle" the indictment, was to obtain a knowledge of the instigators of the perfidious scheme. By Sunday, July 18th, the prisoner's statement was finished, and the counsel on both sides locked themselves in an office while the confessions of the prisoner were read aloud. The narrative opens as follows:

It now becomes my painful though imperative duty to chronicle the circumstances that led to and fully describe that unfortunate affair known as the Mountain Meadows Massacre, in Utah history, which has been shrouded in mystery for the last fifteen years, causing much comment, excitement and vindictive feeling throughout the land. The entire blame has rested upon the Mormon people in Utah. Now, in justice to humanity I feel it my duty to show up the facts as they exist according to the best of my ability, though I implicate myself by so doing. I have no vindictive feelings whatever against any man or class of individuals. What I do is done from a sense of duty to myself, to my God and to the people at large, so that the truth may come to light and the blame rest where it properly belongs.

I have been arrested on the charge of being engaged in the crime committed at the time and place referred to. I have been in close confinement over eight months since my arrest; I was in irons three months of the time during my confinement. For the last seventeen years, in fact, since the commission of the crime I have given this subject much thought and reflection. I have made the effort to bear my confinement with fortitude and resignation, well knowing that most of those engaged in this unfortunate affair were led on by religious influences, commonly called fanaticism, and nothing but their devotion to God and their duty to Him, as taught to them by their religion and their Church leaders, would ever have induced them to commit the outrageous and unnatural acts, believing that all who participated in the lamentable transaction, or most of them, were acting under orders which they considered it their duty—their religious duty—to obey. I have suffered all kinds of ill-treatment and injury, as well as imprisonment, rather than expose these men, knowing the circumstances as I do, and believing in the sincerity of their motives, as I always have done; but I have a duty to perform, and have, since I was arrested, become convinced that it was not the policy of the government or the wish of the court to punish those men, but rather to protect them and let the blame rest on their leaders, where it justly and lawfully belongs.

After much thought and meditation I have come to this conclusion, that I could no longer remain silent on this subject, but so far as I can bring to light the circumstances connected therewith and remove the cloud of mystery that has so long obscured the transaction and seemed to agitate the public mind; believing it to be my duty as a man—a duty to myself, to my family, to my God, and

humanity to cast aside the shackles so long holding my conscience in silence, and in pursuance of the disinterested advice of my attorneys, I now submit the facts so far as I know them, stating nothing from malice or for the purpose of revenge, holding nothing that I can state of my own knowledge, and willing that the world may know all that was done and why the acts were committed. I submit the following as the exact unvarying statement of facts and circumstances connected with the crime known as the Mountain Meadows Massacre.

The prisoner then proceeds to tell at some length the whole plan of the massacre, starting with the first knowledge of the emigrant train, and relating all the incidents which followed their appearance at Cedar City until the final extinguishment at Mountain Meadows. He then tells what was done by the executioners after the perpetration of the crime, mentions the distribution of the surviving children among the families of the settlers, and tells at some detail what disposition was made of the valuable property left by the slaughtered emigrants.

But the statement goes no further in its implication than the local leaders who directed the butchery, and totally fails to throw light upon the complicity of the higher ecclesiasts from whom the order emanated. John M. Higbee, lieutenant colonel of the militia regiment, and Isaac C. Haight, major in the same, are made to perform a conspicuous part in the massacre, and the details of the slaughter of the betrayed victims of treachery, are given with a minuteness and circumstantiality which are harrowing to the most obdurate reader. He tells that the seventeen children saved from the massacre were all delivered to Dr. Forney who promised to convey them to their friends in Missouri and Arkansas. He asserts that none of them were killed after the immolation of their parents. He claims that the massacre was the result of military orders, Utah then being under martial law by proclamation of Governor Brigham Young. Colonel Johnson's army was on its march to Utah, and an invasion from California was also apprehended. The writer tells that the people of Utah were in a state of painful excitement, and acted as desperation dictated. Lee concludes his statement as follows:

A few days after the massacre, I was instructed by Major Isaac C. Haight, next in command to W. Dame, in Iron military district, to carry a report of what had been done to President Brigham Young, at Salt Lake. Haight directed me to give my report and stand up with manly courage, and shoulder as much of the blame as possible, he saying to me that if I did so I should receive a celestial reward. It is my nature never to bind burdens on others, which I am not willing to bear myself. I went to Salt Lake and reported to Brigham Young the exact facts connected with the transaction, shouldering a greater share of responsibility than justly belonged to me.

In justice to Brigham Young, I must say that when he heard my story he wept like a child, walked the floor and wrung his hands in bitter anguish, and said it was the most unfortunate affair, the most unwarranted event that had ever happened to the Mormon people. He said this transaction will bring sorrow and trouble upon us in Utah. I would to God it had never happened. After hearing this I returned home with a drooping heart and reported the result of my mission to those in authority over me.

This statement the prosecuting officers refused to receive, because of the failure of the prisoner to implicate the higher Church authorities. It was evident he was not acting in good faith. A portion of his counsel, Messrs. Spicer, Bishop, and Hoge, avowed themselves devoted to their client's interests, and desirous to procure his acquittal, no matter what other guilty parties might suffer;

but Messrs. Sutherland & Bates, salaried attorneys for the Church, seem to have obtruded themselves upon the defense; and these gentlemen were solely solicitous to screen the First Presidency from incrimination. They appear to have worked upon the prisoner's feelings during the preparation of his statement, and the result of their intervention is shown in the partial and incomplete character of his confession.

The following day (Monday) the Court met, and both parties announcing themselves ready to proceed with the trial, the names of the witnesses for the prosecution were called by the Clerk, upwards of one hundred in number, two-thirds of whom reported themselves present. On the request of counsel, the Marshal was instructed by the Court to exclude witnesses, until they should be examined, from the court room. The defense were also ordered to prepare a list of their witnesses, that they might likewise be kept from the court room until called upon to testify. No further business was done that day.

On Tuesday (the 20th.) District Attorney Carey filed a new indictment charging murder and conspiracy against Lee, Dame and seven others jointly. As the former indictment filed against Lee and Dame charged them with murder only, it was feared this would afford ground for the defendant's counsel to bring out much important testimony. The remainder of the day was granted the defense to look over the indictment.

Some excitement was created towards the evening by information communicated to the United States Marshal of a ruse about to be practiced by the defendant's attorneys. Complaints had been made against several witnesses for the prosecution, and it was announced that warrants would shortly issue for their arrest. This officer took prompt action to meet the exigency. Taking the witness Klingensmith, (the most obnoxious of all apostates to the Church party) into his own quarters for protection, he informed the prisoner's counsel that he had guaranteed immunity from arrest or prosecution to all the witnesses in attendance, and that he should protect them at all hazards. He also made known that any justice of the peace issuing a warrant or any constable attempting to serve it, would be instantly arrested and taken before the United States Commissioner. He also swore in half a dozen special deputies. This put a stop to all attempts to arrest witnesses. The object of this sharp practice was to break down the testimony of the witnesses.

On the 21st, the counsel for defense announced themselves ready for trial under the new indictment, and the prisoner was arraigned under the first count, which charges Lee, Dame and seven others with the murder of John Smith and fifty other persons—men, women and children—the place and date given. The defense filed three pleas in abatement, as follows: that the grand jury who found the indictment was illegal, that the prisoner was not in arrest at the time and had not given bonds to appear, and that the indictment under which the prosecution proposed to try the prisoner was not found and filed by the grand jury in open court. The first and second pleas were demurred to, and a replication filed to the third. The prisoner pleaded not guilty. Mr. Sutherland for the defense, asked that Dame and Lee be tried jointly, to which the prosecution objected, and the Court ordered separate trials. The defense asked till the fol-

lowing day to determine whether they would be ready to go to trial under the new indictment which was granted.

Thursday, July 23d: The day was devoted to impanelling a jury. The Clerk drew twelve names from the box, the jurors answered to their names as called, and they took their seats in the jury box. The Clerk administered an oath to them to answer questions truly. The District Attorney examined them as to their fitness to serve. Of the first seven, six were natives and one naturalized. None had conscientious scruples against finding a verdict of guilty where the punishment might be death, and none had formed or expressed an opinion as to the guilt or innocence of the accused. Of the remainder three had formed an opinion, two had not. Both sides then proceeded to challenge for cause, and when all the incompetent ones had been set aside, the panel stood as follows: Josephus Wadsworth, C. Heister, Paul Price, John Brewer, Gentiles; the remaining eight were Mormons: Isaac Duffin, John Knight, George F. Jarvis, Milton Daley, John C. Duncan, James C. Robinson, John J. Chidester, Ute Perkins, sr.

Fifteen peremptory challenges were allowed prosecution and defense. But eight names remained in the box undrawn, and should the peremptory challenges be exhausted, more jurors would have to be summoned, some of them living upwards of a hundred miles away, and this would delay proceedings a week. The jury as it stood was satisfactory to both sides. The Gentiles were citizens of Piute County, a county settled by obnoxious "outsiders," who gave the Liberal candidate for Congress last election forty-three out of forty-seven votes, and it was believed they would have the firmness to find a verdict according to the testimony and stand to their guns, while the ship kept afloat. The defense also had a few men whose religious obligations to the Church might be depended upon. Both sides agreed to let well enough alone, and waive further challenges. The jury was accordingly sworn, and handed over to the Marshal for safe keeping.

CHAPTER III.

THE TRIAL.

At the opening of the Court on Friday morning, District Attorney Carey delivered the following address:

JUDGE CAREY'S OPENING ADDRESS.

GENTLEMEN OF THE JURY:—Eighteen years ago to-day a train of emigrants was wending its way from Arkansas to find a more genial home in California. About 150 persons composed the company. It was the richest and best equipped train that ever crossed the Rocky Mountains. After three months' wearisome travel over the intervening desert, the tired company of emigrants at last reached Salt Lake, where they could again mingle with persons of their own race. They looked around for a place to camp, in order to refresh their animals and purchase supplies for the remainder of the long journey. To this end they halted on the

western bank of the Jordan, and repaired to the city for the purchase of supplies. But all intercourse was denied them; they were ordered to leave their encampment and move on. Yet there was no scarcity of food in Utah; the harvest had just been gathered, and the toil of the husbandman had been abundantly rewarded. They accordingly started westward, and passed through many flourishing settlements, at every one of which their demand for supplies, for which they offered payment, was churlishly refused. And why this refusal? Did the inhabitants lack common humanity in thus withholding from their brethren in need food to relieve their sufferings? This cannot be charged against them; they must have acted in obedience to an order. Notwithstanding their prompting to aid these tired travelers, an order from the Church authorities forbade all intercourse.

The company reached Corn Creek, and the speaker said he should show the jury that there they met the commander of all the forces of Southern Utah, and encamped by his side. They asked this high official where they could procure supplies and forage for their tired animals. They were told at Mountain Meadows! The company proceeded to Parowan, where entrance into the city was forbidden them. Yet these ill-used emigrants had injured neither Indian nor white man. At Corn Creek they had been able to purchase thirty bushels of corn of an Indian, who surpassed his white brothers in humanity. Occasionally a settler would steal into the emigrant camp at night, carrying articles of food, but this was done clandestinely, and one man detected in this kind service was struck off the rolls of the Church.

On arriving at Mountain Meadows Valley, they found pasture abundant, and they halted for a long needed rest. About September 7th, they were assailed with a volley of musketry which killed seven of the emigrants and wounded fifteen others. The survivors looked around horror-stricken, and found themselves surrounded on all sides with the dreaded Indian. Like brave men, they instantly resolved upon defense. Wheeling their wagons into a corral, they threw up the earth as high as the hubs to form an embankment. Behind this shelter they rested, while their assailants kept up a desultory fire until night fell.

Foiled in their plans of an easy destruction of their victims, at night an Indian runner was dispatched to Cedar City to convey the news that the emigrants had fortified themselves and could not be dislodged. Why did the Indians attack this train? Others had passed through without molestation. For some unknown reason this company had been doomed to destruction.

John D. Lee was sub-Indian Agent, and had greater control over these red men than any other person in Southern Utah. He had assembled all the Indians in the region. The intention was to massacre this company on the first assault, and then spread the report that the Indians had done it. But the bravery of these sturdy Arkansans defeated the fell design.

At Cedar City there was a military organization, and the members were ordered to march, "armed and equipped as the law directs," to Mountain Meadows. We propose to show who gave this order. The troops sallied forth, being told that the Indians had destroyed a company of emigrants, and they were wanted to bury the slain. One man seems to have believed this story, for he presented himself to his officer with a spade in his hand. He was asked for his gun, was rated as a fool, and told to go home.

The company marched to the scene of the conflict. Seeing the emigrants entrenched and determined to defend their position, they at once perceived the danger of an assault, and saw that a long siege must be resorted to. But to obviate this, stratagem was used.

The emigrants being cut off from water, it was resolved to beleague them, that day after day famine and thirst might do their certain work. The assailants played games while the emigrants' supplies were being exhausted.

Suddenly the sight of the emigrants is delighted with the approach of armed men bearing the American flag. They hail the spectacle with joy. For this approach means rescue and deliverance from the blood-thirsty and unrelenting savages who surrounded them. They come to a halt, and a flag of truce is dis-

played—an emblem held sacred by all civilized nations. It was borne to those men, women and children, and the bearer tells them as a friend that the Indians are angry and nothing less than the surrender of their provisions, arms and ostle will pacify them. "Deliver up these," said the traitor who lured these doomed victims to their destruction, "and we will protect you from their violence." Who is guilty of this base act of treachery? The prisoner at the bar. Some hesitated, they feared deception; others expressed their willingness to trust him, the solemn assurances of the tempter deceived them. After long deliberation, they consented to relinquish their arms. Lee arranges the plan of capitulation. The wounded men, the smaller children and the arms of the company are placed in wagons and driven past the troops, the women and older children following on foot; at a little distance the men bring up the rear, marching two by two. But death meets them on the way.

Let us see how this cruelest of all cruel devices is consummated. The Indian allies are concealed in ambush; these are called upon in cold blood to murder the women and those children who are old enough to tell the tale. The men are reduced to single file, and a soldier is placed against each, armed with a rifle. In this shape they march nearly half a mile. A halt is called, every man fires, and nearly every victim falls. This is a signal for the horde of concealed savages to sally out and murder the women and children.

In a very few minutes the work of death is complete; seventeen little children only survive of that entire company. The speaker here cited a few historic parallels. The Black Hole of Calcutta where 146 British soldiers were confined, 123 of whom died during the night. But these men were prisoners of war, and the barbarian who ordered their confinement was doubtless ignorant of the deadly nature of foul air. The massacre of St. Bartholomew, where thousands fell victims to brutal and fanatic rage. But this was perpetrated from a mistaken religious zeal, and in obedience to a political axiom that France must be all Catholic or all Protestant. The Biblical account of the slaughter of the inhabitants of Ai was also cited, where Joshua exterminated an entire city population; but the miserable reason offered for this butchery was that the Israelites wanted their homes. All these assassinations, said the speaker, are palliated by some obvious motive, but a motive for the slaughter of these emigrants at Mountain Meadows seems utterly wanting.

After the victims were slain, what was done? The surviving children are carried to a neighboring rancho, the dead bodies are left upon the field of blood unburied and uncared for.

We shall show you how two weeks after the massacre, some travelers passed by and saw two piles of bodies mutilated by wolves and vultures. More than half of the slain victims had their throats cut, the others were mangled with gun-shot wounds and knife thrusts. Not a shred of clothing covered the nude remains. At a little distance from the mound of bodies, lay a woman whose beauty won admiration, uninjured by the beasts of prey, and untouched by decay. Her countenance bore a placid smile as though she lay in sleep. The witness who will repeat these facts was so horror stricken at the scene, that he fled the field. The other ghastly pile of bodies composed of the remains of the men, he had not heart to visit. From that field of death and shame he carried away a remembrance that will haunt his thoughts till the day of his death.

The prosecuting officer then described the distribution of the property. The garments stripped from the slain that were torn and bloody were given to the Indians. The better portion was placed in the tithing cellar in Cedar City, where some time afterwards it was sold at auction. A portion of the cattle was driven to Salt Lake, where they were sold for a stock of goods. Some 200 or 300 of the emigrants' herd were branded with the mark of John D. Lee and then turned on the rancho.

Testimony will show that the prisoner at the bar received a coat perforated with two bullet holes. On his way to Salt Lake he wore this garment, and in every settlement he reached the murderer boasted of his trophy. But on arriving

at Salt Lake City he found his boasts were not received with favor. He had approached too near to civilization for such crime and rapine to be tolerated.

The gold and silver stolen from this murdered company have never been heard of. They were a wealthy body of persons, going to purchase homes in Southern California. John D. Lee held the last fatal conference with them when death appeared to be staring them in the face from the Indians. Of course in this fearful strait they would make any terms with the man who offered them deliverance. When Lee visited Salt Lake he was directed by Brigham Young to see the property placed in the tithing house in Cedar City.

We shall also show the jury some of the part taken by Brigham Young in this affair, the part he took in the disposition of the valuable spoils, and the command he laid upon the leaders in the massacre to keep it a profound secret, and not to talk of it even among themselves. This may account for the incredible statements made by persons who have lived for years in the neighborhood, that all they have heard of the appalling crime has been conveyed by mere rumor. But this is one of those fearful secrets that cannot be kept from the knowledge of the world.

We expect to prove that the military force of the Territory was ordered out; from how high a source this order emanated we may not succeed in showing. George A. Smith was commander of the military district of Southern Utah. Dams, Haight and Higbee held subordinate commands, and were subject to their superior officer.

The speaker then dwelt upon the death of the few fugitives who escaped the general massacre. Two of the victims repaired to a spring for water, they were set upon by two of their pursuers and one fell dead with a bullet sent crashing into his brain. Three brave men set out from the train to procure aid from California. They were pursued by Indians and two of them killed. The survivor fled with a painful wound in the arm, and meeting two others proceeding northward, returned with them and very shortly afterwards was overtaken and murdered. Thus was the fearful and bloody work completed, and the assassins idly supposed that none survived to tell the tale.

After eighteen long years, during which time this unatoned crime has rested heavily upon the people's conscience, a jury is now summoned to hear evidence which shall make clear the whole dread occurrence. The leaders have feared investigation into the revolting crime, and a number are now skulking away from the haunts of men. But they can no longer find a safe hiding place. What were then untraveled wilds are now busy haunts of industry and civilization. They may believe themselves secure in the caves and hidden retreats of Arizona, but justice will follow them to the ends of the earth, and officers of the law will surely find them out.

THE TESTIMONY.

ROBERT KERRY was first placed upon the stand, who deposed that in the year 1857 he lived in California and Utah; came to Utah in October of that year; passed through Mountain Meadows valley, which is situate southwest of Cedar City. Saw two piles of bodies, one composed of women and children, the other of men; the bodies were entirely nude, and seemed to have been thrown promiscuously together; they appeared to have been massacred. Should judge there were sixty or seventy bodies of women and children, saw one man in the pile; the children were aged from one and two months up to twelve years; the small children were most destroyed by wolves and crows; the throats of some were cut, others stabbed with knives, some had balls through them. All the bodies were more or less torn to pieces, except one, the body of a woman, which lay apart a little southwest of the pile. This showed no signs of decay, and had not been touched by the wild animals. The countenance was placid and seemed to be asleep. The work was not freshly done—supposed the bodies had been here fifteen or sixteen days. Witness passed the ground October 2d, 1857.

There were eleven in the company. Seven went to see the pile of slaughtered men which lay a few rods off. Witness did not go. All the clothing he saw was a stocking on the leg of one of the bodies. The woman lying apart had a bullet hole on the left side, a little below the heart.

ASAHEL BENNETT was the next witness examined. Was at Mountain Meadows in '57, not far from two months after the massacre. Passed along there in December; while riding along in a buggy saw a quantity of human bones. Had heard of the massacre, saw a pretty horrible sight; saw skulls of women and children, the former with long tresses of beautiful hair attached, discolored with blood and dried up. Remarkd the skeleton of a child apparently ten to twelve years old; also saw the skeletons of women; can't say how many; was pretty well upset with the sight; stayed two or three minutes on the ground; it seemed so many hours. The bones had been buried—covered up with earth in holes and gullies. The wolves had dragged them out; the bones were scattered around over a space, about the size of this room. The place lies southwest by west of Cedar City, about thirty miles distant.

PHILLIP KLINGENSMITH'S TESTIMONY.

The testimony of this witness being objected to by the defense on the ground of his being indicted for murder, the District Attorney entered a "nolle prosequi." He deposed as follows:

Lived in Cedar City in 1857; had lived there from 1852. Mountain Meadows is forty-five to fifty miles from Cedar City, on the old California road. Knew the prisoner in 1857. Was at Mountain Meadows at the time of the massacre; it occurred towards the first of September, 1857, as near as he could recollect. Had heard that the company of emigrants was coming southward; the people were forbidden to trade with them; Witness felt bad about it. The company came to Cedar City; saw three or four of them; this must have been in the upper city; believes it was on Friday. The company went on from there. The Sunday following had the usual meeting, composed of the Bishop's Counsel and the High Counsel, to talk over matters; witness was Bishop, but held no military position. (Objected to.) The question of the emigrants and their destruction came up. The council was composed of Haight, Higbee, witness, his two counselors, Morrell, Allen, and some others. Some were opposed to the massacre, witness amongst them; others favored it. The meeting broke up in a row, and the members went out of doors; asked what would be the result if this thing was done. This appeared to cause confusion, and the meeting broke up.

On Monday we met before the Old Fort, Haight, Higbee, Joel White, and witness; the same subject was again discussed. Witness opposed the destruction of the emigrants; Haight said: "You may go over with Joel White and tell the president to let the emigrants go through." Started in the afternoon, on the road saw John D. Lee in a field some distance from town; he asked where we were going. Witness told him to see that this people got through. Lee replied: "I have something to say to that." The last witness saw of that company was at Iron Springs; as they were drawing out in the morning we were passing back; there were between twenty and thirty wagons, and one hundred or more people. The company was composed of men, women and children. Going home the day following their departure from Cedar City met Ira Allen, four miles beyond the place where they had spoken to Lee. Allen said: "The die is cast, the doom of the emigrants is sealed." [This was in reference to a meeting in Parowan, where the destruction of the emigrants had been decided upon.] He said John D. Lee had received orders from headquarters at Parowan to take men and go, and Joel White would be wanted to go to Pinto Creek and revoke the order to suffer the emigrants to pass.

The third day after Haight came to McFarlane's house, and told witness and others that orders had come in from camp last night. Things hadn't gone along as had been expected, and reinforcements were wanted. Haight then went to

Parowan to get instructions, and received orders from Dame to decoy the emigrants out and spare nothing but the small children who could not tell the tale. Went to old town, in front of Ira Allen's house, where witness saw Higbee, who said: "You are ordered out, armed and equipped as the law directs." Went and procured his horse and arms, and started out with Charley Hopkins, Higbee, Willis, Sam McMurdy and others. Willis and Sam McMurdy had their wagons along; reached Hamblin's ranche at night, where they found Lee and some more men, and from Lee they learned how matters stood in camp. Lee called witness aside and produced a letter which he said contained orders sent to him from Parowan. He then detailed to witness the condition of the train; he said the emigrants were strongly fortified and there was no way to get them out. Higbee said he had orders to decoy them out disarmed. This plan was agreed upon, and the execution of the stratagem entrusted to Lee.

Orders were then given to march to the spring where the Indians and Southern soldiers were encamped. (Soldiers from Washington County.) On arriving on the ground Lee formed them into a hollow square and talked to the troops. The company was composed entirely of white men, not an Indian amongst them; there were about fifty men in line; witness gave their names as far as he could remember; old man Slade and son, Pearce and son (not positive about the boy), Will Stewart, Swen Jacobs; could remember no more names. Witness and Slade were outside the line and talked over the business. It struck both of them as horrible and both opposed the massacre. Witness inquired: "What can we do? How can we help ourselves?" And Slade said: "There is no way to help ourselves."

The company was then ordered to march down about one and a-half miles in double file, Higbee with the other officers taking command. The organization was called the Nauvoo Legion. They were organized in tens and hundreds, with a lieutenant to each company of ten. They halted a quarter of a mile from the corral, in full sight of the emigrants. A man went down with a flag; can't say who carried it. Some one came out of the corral. John D. Lee then went down. The two sat down on the grass and had a long talk. What Lee said to that man witness did not know; they then went inside the intrenchment. The soldiers stood in line this while; perhaps it lasted three or four hours. Lee was inside the intrenchment most of the time; then the emigrants came out. Higbee ordered the proceedings. The women came out first, and marched ahead with the baggage wagons and the children. There had been some emigrants wounded by the fire of the Indians three days previously, and these were placed in the wagons; then the men followed in the procession. The wagons and women having passed, Higbee commanded our column to march. Soldiers and emigrants marched side by side from a quarter to half a mile, the former with their pieces across their left arms. The soldiers were protecting the emigrants from the Indians, and they were expressing their gratitude for the deliverance. The command was then given to halt, and the soldiers had been instructed at the word "halt," to fire. Witness was not certain whether the emigrants were reduced from double to single file, but thinks they were. Higbee gave the word "fire!" and nearly every man fell. Witness supposed there were fifty men killed; might have been more. Saw some attempt to escape, but there were mounted men to dispatch the fugitives. Bill Stewart chased one fleeing man; thinks he saw him fall; he did not go far. Ira Allen was also mounted and placed on the left wing. Witness was in the ranks and fired one time. John M. Higbee cut one man's throat. The emigrant knew his murderer, and said, "I wouldn't do that to you, John." A large woman came running from the wagons, calling for her husband. A man standing near to witness shot her in the back, and she fell dead. Lee marched ahead with the wagons, and seemed to have direction. The soldiers were armed with revolvers and United States yagers. Lee carried a revolver.

Being ordered to gather up the children, witness walked forward a quarter of a mile to the wagons. Saw a pretty bad sight. Women were lying with their throats cut, some with their heads smashed in. A little girl seven or eight years

old was killed in his sight; shot down; witness did not see by whom. On reaching the wagons he found the wounded men already slain. Did not see Lee; saw McMurdy was there, and witness thinks Knight, also. Placed the children in wagon and carried them to Hamblin's ranche.

After the firing the soldiers dispersed; those from the south went towards their homes; those from the north, proceeded to Hamblin's. Witness had his hands full with the children, two of whom were wounded, and one of these died on the way. The other child was wounded in the arm, and he had to leave it. The emigrants had some mules; most of the draught animals were oxen. Could not tell how much stock they had. When witness passed them at Iron Springs saw a portion of their stock, the other portion they were hunting up. Did not see their loose herd. He knew what became of some of their cattle.

Next morning started out with the children for Cedar City. Left one or two of them at Beaver Creek; then went home. Passed the train a little off the road. Went to Hopkins' place and told the woman he (witness) had brought her a house full of children; gave her no information; she understood the whole thing; her husband had been at Mountain Meadows. There I left the children, taking one home for my woman to nurse at the breast. Afterwards I gave the child to Babcock, because he had none. Procured places for the children among the neighbors around, and they were generally well treated. Lee took one, and John M. Higbee took another. Didn't see Lee at Cedar after the massacre; subsequently met him at Salt Lake City.

The witness being asked what conversation took place between himself and the prisoner at Salt Lake, counsel for defense objected. A long argument ensued, and the question was finally ruled upon by the Court, who decided that acts and declarations of the prisoner, tending to criminate himself, might be taken as testimony.

EXAMINATION RESUMED.—The witness then gave in full detail his conversation with other parties about the disposition of the emigrants' property. The day after the massacre Haight directed witness to go to Iron Springs, where some of the cattle and wagons had been driven, and gather up the clothing and loose property of the emigrants and place it in the tithing house cellar; also to brand the cattle. Found several men there with a number of wagons; some had been destroyed. Went to the Meadows, gathered up what property he could find, and placed it in the tithing house cellar. The goods remained there till after witness' visit to Salt Lake. Branded the cattle—some fifty head—with the Church brand, a cross. Recollect seeing Lee in Cedar City in the tithing house cellar; saw him no more till witness met him in Salt Lake. Haight or Higbee said Lee had been sent to give Brigham Young a report of the massacre; he went ahead of witness; witness' business in Salt Lake was to attend Conference, held October 6th; reached there a day or two before; had some talk with Lee about the affair. He said he had told Brigham Young everything that had transpired.

The next day Lee, Charly Hopkins and witness met in President Young's office. He received them well, took them to his barn and showed them his horses, carriages and other fine things. He told witness, who had control of the property, to turn it over to Lee, as he was Indian Agent anyway, and the disposal of it more properly belonged to him. Brigham then turned to witness and said: "What you know about this affair do not tell to anybody; do not even talk about it among yourselves."

Witness was then sent to Arizona, to the Vegas lead mine (discovered by himself) with three teams to procure lead. On his return from this expedition was informed by Lee, Haight and Higbee that the property had been auctioned off; Haight drove a lot of cattle to Salt Lake and sold them to William H. Hooper for boots and shoes; saw the cases containing them in Cedar City afterwards. The hills were full of Indians; saw one go out and cut a little boy's throat; no one remonstrated with him or restrained him. Three Indians were wounded and died; don't know if any were killed in action; Indians came into town after the

massacre; saw wagon covers and clothing in their possession; the clothing seemed home made. Saw Lee get dresses and jeans in the cellar and carry them away; said he wanted them for his own domestic use. Don't know how the Indians came to participate in the fight. Ira Allen and Joel White said Lee had instructions to go to Pinto Creek and gather up the Indians. Lee was Indian Agent at Harmony.

Witness did not know the names of any of the victims. Lee was engaged an hour or two in consultation with them; had no conversation with the prisoner as to what passed between them. Subsequent to the massacre had a talk with him, but does not remember what was said; always understood that George A. Smith was commander of the Nauvoo Legion of Southern Utah. Lee had direction of the troops on the ground; W. H. Dame was Colonel; John M. Higbee, Lieutenant-Colonel; and Isaac C. Haight, Major. Does not know whether the order for the massacre emanated from George A. Smith; he was general commanding officer from the organization of the Nauvoo Legion till witness left the country.

The examination of the witness Klingensmith was finished at an early hour on Saturday morning. He gave his testimony with some reluctance, but answered all questions with apparent truthfulness, taking time to consider before he gave his replies. Five participants in the massacre were placed upon the stand during the trial, not one of whom admitted the fact of his having fired upon the emigrants except this witness. During his cross-examination by Judge Sutherland, the latter said, "I suppose you fired your piece over the heads of the emigrants?" The witness replied, "I fired at my man, and suppose I killed him." The terrible revelation he had made was telegraphed in full to the associated press, and produced a feeling of horror throughout the country. His testimony fully confirms the accounts that had previously been published of this fearful tragedy, but the details of the treachery by which the famishing emigrants were decoyed from behind their defenses, had never before been so fully and faithfully made known. The statement, too, being given by a penitent participant, and under the solemnity of a judicial investigation, more deeply impressed the public with its truth, and the whole newspaper press of the country was unanimous in its expression of horror at the revolting crime, and was urgent in invoking vengeance upon the heads of the guilty instigators. The cross-examination was searchingly conducted by Judge Sutherland, but it only resulted in more fully establishing his credibility. The following is a condensed report of

THE CROSS-EXAMINATION.

Witness is sixty-one years old. Was born in Pennsylvania; lived there till he was twenty-three or four. Removed to Indiana; lived there four years, then went to Michigan. Went to Nauvoo in 1844, and remained there till '46. Went thence to Council Grove, Iowa; stayed there one year; next removed to Council Bluffs, where he lived two years. From there he went to Salt Lake, where he arrived August, 1846. Remained three months, and then went with the emigration of '49 to San Pete. Made two crops there; thence to Parowan and from there to Cedar City. Settled in the latter place in 1852, and remained there till a year after the massacre. Removed to Toquerville about 1859, where he lived a year and a half, then went to the Virgen, where he stayed two years. Returned to Toquerville and lived six months there, then went on a ranche in what is called the Bench country. Lived there a year, then returned to Parowan, and then to the Muddy, at the time the settlement was made, about '62 or 3. Made two crops there. Left the Muddy in 1865, and returned to Parowan, where he stayed over a year, then went to Meadow Valley, Lincoln County, Nevada, where he is still living. Spends about half his time there, the remainder he employs

in prospecting. In Salt Lake was an Elder in the Seventies; was ordained in Nauvoo at the re-organization of the Church of Jesus Christ of Latter-day Saints. In 1857 was Bishop of Cedar City. The duties of a bishop are to assist in temporal affairs, to collect tithing, and lead out as a father in making fields, water-ditches and so-forth. Acted under the Presidency of Isaac C. Haight, President of the stake, who had a right to countermand the bishop's orders. Had no authority to give orders except in temporal matters. The President and the Bishop counseled the people. James Whittaker and old Daddy Morris were witness counselors. Haight lived in Cedar City, in the upper town.

Witness' first knowledge of the emigrants was that they had been ordered away from Salt Lake, and were coming down through the settlements. Heard from President Haight that the people were forbidden to trade with them. Haight broached the matter in the council at Cedar City. He said the emigrants were coming down, and the substance of his remarks was that they must be destroyed. He gave no reason for their destruction, which astonished witness. Those present gave their views in turns. Witness and his counselors, and Morrell, opposed it. Ira Allen, John M. Higbee, and perhaps one or two others, approved. The object of the meeting was to discuss the interests of the settlements. There was not much said, and no vote taken. Three or four favored the proposition, as many opposed it. Witness made no appeal to the meeting, had no power to prevent the massacre. Haight preached a number of times before the emigrants arrived; once he preached against trading with them. The emigrants had passed through Cedar City previous to the meeting. They didn't remain long in the settlement. Witness saw a few of them in the lower town, at the mill. At the meeting held in the field the next day, witness said he should like the emigrants to pass through without being molested. Then Haight sent witness and Joel White to Pinto Creek, to instruct the people to let the emigrants pass on without molestation. Never knew why they were killed, before or after.

After returning from Pinto Creek his next talk was with President Haight, word having just come that reinforcements were wanted; Haight said things hadn't gone off as had been anticipated; told witness he had been to Parowan to learn further about it, and had got back before day that morning. The council there had determined to kill them all and save nothing but the small children. Witness did not oppose the muster of troops because he was afraid something bad would happen to him; if a man didn't walk up to what he was told, it wouldn't be well for him. Ira Allen, on meeting witness and Joel White returning from Pinto Creek, referred to the decision of the council in Parowan, when he said: "The die is cast, the doom of the emigrants is sealed." Witness was afraid of personal violence if he should offer any active opposition. Didn't consider his life would be safe. Others were in the same position. Haight and his counsel (J. M. Higbee and Elias Morris) were over witness. This fear grew out of long experience; had seen one man put away and had heard of other such cases. Took part in this affair through personal fear; has heard of Rosmus Anderson being put away; he was charged with adultery. Heard of three other men being put away while witness was in Salt Lake.

Mr. W. W. Bishop, of Pioche, who was cross-examining the witness, here declared that must be an extraordinary state of things not understood by the American people, where the second man in authority in a community is compelled to stain his hands with murder for fear of his life if he disobeys.

CROSS-EXAMINATION CONTINUED.

Haight had received word from Dame of the decision of the counsel in Parowan. Witness went to the slaughter by order of Higbee, who told him to arm and equip as the law directs, and go out there; went to the fight with Higbee and a dozen others; was a regularly enrolled private. Arrived at the Meadows in the fore part of the night; saw no Indians there. In the council held upon the field, Lee said the Indians were there in large numbers. Higbee gave verbal orders to

Lee, who told the latter that orders had come that the emigrants must be decoyed out and destroyed. Higbee said that orders had come from Haight that the soldiers must kill the men and the Indians the women and children. At the council on the field it was arranged that Lee should have charge of the massacre. William Bateman carried the first flag of truce, Lee carried the second. The emigrants came out of the corral during the afternoon; there were forty to fifty soldiers in line. After the firing upon the men, witness went ahead to one of the wagons and took charge of the children. The emigrants marched abreast of the soldiers, about eight or ten feet apart; they marched along about one hundred yards, Higbee at the head of the column. When the command to halt was given, the soldiers understood they were to fire. Lee was with the women a hundred yards away, concealed from view round a point. The women were attacked at the same time as the men; witness stood ten feet from Higbee, who also fired. Obeyed orders and aimed to hit his man. Sam McMurdy and Sam Knight drove the wagons which contained the wounded emigrants and the children.

Saw many Indians; heard there were one hundred present. After the emigrants had been killed do not remember of seeing Lee on the field. The oldest boy saved was about two and a half years, the rest were all younger. When witness passed the emigrants while returning from Pinto, did not notify them of their danger; had no orders; did nothing without orders. Saw Lee at Cedar City a week after the massacre. Witness put the Church brand upon the cattle by Haight's order. When in Salt Lake did not speak of the massacre to the authorities; had no right to speak about it. Visited Brigham Young with Hopkins and Lee; Brigham Young told Lee to take charge of the property, as he was Indian Agent. Witness first made public the facts of the massacre in Bullionville, the affidavit he made there was true in every particular. Witness was cut off from the Church four or five years ago; resigned his bishopric in '68 or '69; was not in full fellowship afterwards. Haight told me he sold forty or fifty head of cattle to Hooper. Saw the boots he received for them in the tithing house at Cedar City. Witness came here voluntarily to give his testimony and see the thing through.

On Monday, July 26th, the cross-examination of Philip Klingensmith was resumed. He gave an imperfect description of the goods placed in the cellar of the tithing house, which consisted of clothing, packages of jeans, yokes, ox chains, traps taken from the wagons.

Witness said goods were not placed in his charge, he was merely sent to stow them away; took no memorandum of the property; didn't want anything to do with it, and took no charge of property of that kind. Was never present at any council where parties were ordered to be put out of the way. The wagons were left around the tithing office in Cedar City, and were afterwards sold while witness was away.

RE-DIRECT EXAMINATION.

Don't know of any hostile Indians being present; heard from Lee that some were there; understood that they were there to finish the massacre. Lee said that Indians were around there shooting at the emigrants. When witness met Lee at Salt Lake, asked Lee if he had told Brigham Young all about the massacre and what he said. Lee replied that Brigham Young had said it was all right. Lee, witness and Charley Hopkins visited Brigham Young at the President's office, who showed them about his barnyard. On returning to the office he said: "What you know about this business do not tell to anybody; don't talk about it even among yourselves."

CHAPTER IV.

TESTIMONY CONTINUED.

Joel M. White was the next witness examined. He is forty-four years of age; lives in Cedar Valley, and has lived there from twelve to thirteen years. In 1857 lived in Cedar City; moved there in the fall of '54. Mountain Meadows Valley is southwest of Cedar City thirty-five miles.

Being directed by counsel to give an account of the Massacre in his own way, the witness related the following circumstances:

When the company passed through Cedar City I was not home, but returned the next day. Saw Haight, Klingensmith and some others close to the old school house. Haight sent me with a letter to Pinto Creek to the man in charge of the Indians there; directing him to pacify the Indians and let the emigrants pass; Smith volunteered to go with me. We saddled our horses and started. A little distance out of town we met Lee; told him where we were going and the nature of our errand. Lee said: "I don't know about that," or "I've got something to do with it." Gave the letter to Richard Robinson, overseer of Indians at Pinto Creek; had no conversation with Smith about the letter; then Smith and I turned round and came back. Went to my work the next day. The letter was sealed. Two or three days afterwards while hauling wheat, Higbee came and said he wanted me to be on the ground with a baggage wagon, as the Indians and emigrants were fighting. Hitched up and went to the square; several wagons were there with men in them. This was about dusk. Loaded up with some stuff and took my place in the rear; Jimmy Williams rode with me; drove to the ground and halted about half a mile from the emigrants, where we encamped. The emigrants were fortified. Indians were loafing around in the shade in different places and appeared friendly; everything was quiet and I slept considerably, having traveled all night. Nothing was done for two or three days; then the company was ordered down in single file a quarter of a mile nearer to the emigrant camp. Halted about two or three hundred yards distant. A flag of truce was sent down, and Lee went with it. A man came out of the corral, and the two talked together; then they went inside; suppose it was for a treaty, as I understood that the design was to bring them out. Don't know that anything was said among ourselves about it before we went down. While standing in line we were told that there would be a signal given at which we were to halt and then fire. Wagons drove down past us to the corral, and they seemed to be loading in arms. The people came out of the camp and followed after the wagons. The wagons came up past us, the emigrants following. When opposite to our company we marched along in single file beside them about a quarter of a mile, four or five feet apart. The soldiers were armed with rifles and guns. The command "halt" was given, and a round was fired. Hereupon the Indians broke out from a small hill, hooting and yelling, and finished up those that remained. Until the Indians appeared I wondered where they were. There might have been forty or fifty, perhaps more; there were a good many of them. Don't remember whether the men and women were promiscuously mixed, as I was behind them in the line; saw some women killed when the Indians came up. There was such a hooting and hallooing that I don't remember what was done; kept my post after the massacre; didn't go around among the bodies. There must have been twenty-five or thirty men killed; don't know how many women and children. There were about thirty, forty or fifty soldiers. Some of the emigrants fell at the first fire, others broke and fled. The Indians ran them down. One man ran half a mile with two Indians after him; saw him fall in the end. Went back to camp; stayed there all night. The men, except the teamsters, went on ahead. In the morning fixed up things and went home. The Indians took no scalps; saw wagons, oxen and horses belonging to the emigrants; the property they had in camp I did not see.

Met the emigrants coming out of the camp as we returned from Pinto Creek.

There were three or four yoke of cattle to every wagon. They had good strong teams. Saw a good deal of stock at Harmony and about Kamb. Knew they were emigrants' cattle, because they were work-cattle and thin. The Indians lived off this cattle quite a while. Heard Lee say he had issued out cattle to them; that they had got all that belonged to them of that property. He kept a book account of his issues. Lee took charge of the stock at the time; don't know whether Lee held any office over the Indians. They wanted more. Lee said, "My books will show that I have issued all that belongs to them." Lee issued the beeves; sometimes he slaughtered and sometimes the Indians. Have seen the Indians killing beeves, and asked them why they did so. They said, it was beef they got of John D. Lee. Saw a party going to bury the dead. Didn't see the burying done. When they came back they said they had buried the bodies.

CROSS-EXAMINATION.

Met Smith just after the emigrant-train had passed through. Didn't see the emigrants when they passed; was away from home; saw them pulling up hill as I returned next morning. The object of the letter was to facilitate the safe passage of the emigrants. Smith and I both felt uneasy and wished the emigrants safe through. A week before the emigrants arrived, runners came along the road to stir up bad feeling; said they had poisoned the spring at Corn Creek. A good deal of excitement existed. Witness repeated the order he had received from Higbee. Told him I had no gun. He said: "Never mind." Carried our baggage and one man. The baggage consisted of bedding and provisions. Half a dozen wagons were along, which carried men, four or five in a wagon. Drove right along, made no halt; nothing was said about what we were going for; understood the emigrants were fighting. Didn't know whether we were going to help the emigrants or Indians. After we had got there and been unhitched awhile, Lee joined us; don't know where he came from. I slept all that day; that night or the next morning saw strangers from the cotton country.

Along in the afternoon, heard once in a while a shot fired. Towards night saw some Indians go down hill into the hollow; and there shots were exchanged between the Indians and the emigrants. The men had no talk among themselves. Higbee and Smith seemed to have charge; Lee was also a prominent man among them.

The second morning there was no movement; nothing going on. The third morning some few went to Hamblin's ranche to get buttermilk, and after awhile returned. We were camped to the left of the road going south, the emigrants to the right; they had turned out of the road a little. We were about half a mile distant, and three or four miles from Hamblin's ranche. Second night all was quiet in camp; heard the Indians whooping, yelling and hallooing around; they were in the hills, bushes and other places of concealment. Am not positive the massacre was on the third day; if it was there was no stir made until afternoon. Higbee called the company up and formed them into line; do not recollect any statement being made, only that we were to march down towards the corral; had not learned during my stay on the ground the object of the muster; no conversation was held. Had no intercourse with the company. There were no high chiefs among the Indians; they were mostly all Piutes; some Indians were there from Beaver. The Piutes ranged all the way from Corn Creek, south to the Meadows. The head chief had his leg broken. The whites went and looked at his wounded limb.

Saw Lee the day we arrived; he came to camp once in awhile, as often as Higbee and Smith. All the men joined together when Higbee called them out. More Indians were in sight during the massacre than any time before. They came rushing down on the crowd of emigrants; should judge there were forty or fifty Indians; might have been more.

Returning home, went close by Hamblin's ranche. His house is a hundred yards off the road. The company went back promiscuously, just as it happened. Don't remember seeing any other teams along. Saw Smith just after the

slaughter; he was standing by a wagon with children. The emigrants went stringing along in single file. There were no women where I stood, just men. Couldn't see the whole line without stepping out of the ranks. The company was halted two hundred yards from the emigrants' camp when the wagons drove down. When Lee came out of camp and the emigrants marched along, he followed next to the wagons. They were loaded with guns; could see men sitting up; understood they were wounded. Don't know whether any children had been placed in the wagons. Witness told Higbee he had no gun. Higbee said: "No matter; fill up the ranks any way."

In the afternoon the witness produced a diagram of the Meadows, prepared during recess at the request of the prisoner's counsel. Witness had no gun; don't know whether the other teamsters were armed or not. On re-direct examination, he said that the men from the Cotton country came in while he was asleep in camp. The massacre occurred in the afternoon, and was finished up before sundown. In reply to further questions by the defense, he said it might be two or three days after he returned from Pinto before he was summoned to the field. He was picked up by Bill Hickman at Cedar Fort, Utah County, and brought here to testify.

MRS. ANN ELIZA HOGG testified that in 1867 she lived in Fort Harmony, Iron County; had lived there a year and a half. Attended a meeting called before the men went to Mountain Meadows. John D. Lee spoke there; said he had called the meeting to consider the passage of emigrants through the country; this people had already suffered enough from the Gentiles. At Nauvoo they had driven out two or three families to suffer in the cold. He wanted more men because they had not enough to deal with them. He said some of the emigrants had been carousing, and then called upon President Haight, who had refused to see them. He finished up with threatening the emigrants, and thought it would be better to put them out of the way. A vote was then taken upon the motion to start the next morning, and all hands were held up. Witness raised her hand, but remembering the nature of the business, instantly withdrew it. The next morning all started out with some Indians in company. Five days after, the women had become anxious for the men's return. Looking out, witness saw John D. Lee in the street with some Indians; he was distributing melons, pies and other things amongst them. The Indians were quite numerous. He then called a meeting and made a statement of the expedition; he said he had had a narrow escape; the Indians refused to act; he then went to the emigrants' camp and was fired at, two shots passing through his clothes; he put up a handkerchief as a flag of truce; a man came out and asked if it meant peace. Lee said peace; give up your arms and we will protect you. This offer was debated among the emigrants—some favored and others opposed. They finally surrendered their weapons, and Lee passed them to the Indians who were in a row with the white men. Most of them were shot down; one man refused to give up a child he carried in his arms, and Lee shot him, the bullet killing the child. He said he was not guilty of shedding innocent blood because the man had refused to give up the child. An express from Salt Lake came in here and interrupted the speaker. Three or four children were brought to Fort Harmony; one boy said that Indian had killed his father because he wore pa's clothes. Witness never saw that child again. Lee said the children must not be asked questions, as he wished them to forget the occurrence.

This witness is an apostate from the Mormon Church, and is now a resident of Salt Lake. She was exceedingly garrulous, and being quite deaf, it was hard to stop her when her tongue began running. She mixed things up somewhat in her testimony, which may be due to a defect in her memory, or it may be that

Lee indulged in "yarning" a little on his return from the field of glory. She was evidently an honest witness, and her testimony was valuable. The express from Salt Lake she speaks of, who arrived while Lee was speaking, undoubtedly carried the letter alluded to by Brigham Young in his deposition, ordering the safe passage of the emigrants through the Territory.

THOMAS D. WILLIS deposed that he lived in Cedar City in 1857; saw the train as it passed through; should judge there were twenty to thirty wagons; they drove a loose herd of stock—400 or 500 head. Saw a number of riding horses; some of the emigrants were mounted. There were thirty to forty men, besides women and children. Heard Haight talking about the train before it went through; he came to witness' father's house to talk about attacking the Indians; didn't hear the first of the conversation. Father said, if you are going to make an attack do it while they are traveling. Haight thought the assault could be best made while they were encamped; the Indians would shoot arrows very fast. Father said if he attacked them while in camp he would get whipped. Witness' brother went with the party; he took a team and was gone two days. Bill Stewart talked over the subject. Saw some clothing on the Indians, shot and bloody; they said it came from the Indians; the Indians were killing cattle, saw two or three of the wagons at the tithing office in Cedar City. Knew the Indians who lived about Cedar. The Corn Creek Indians made some trouble with the settlers; they were encamped there. The Indians had no horses before the massacre; they came back with horses and saddles, red-topped boots, high-crowned hats, an went swelling around. They washed their bloody clothes in the city ditch. Saw three children in the city; Higbee had one, witness' brother had another, Burbanks had the third. Dr. Forney gathered them up and took them away.

CROSS-EXAMINED.—His father was putting up an old-fashioned Dutch oven when Haight called. There was no other camp of strange Indians but that of the Pah-vants from Corn Creek. Was sixteen years old at the time. Drilled with the militia once in awhile; was not an enrolled member. The company drilled weekly; witness drilled when he felt like it.

JOHN H. WILLIS (brother to the former witness) said he had never seen the emigrant train. Was ordered to Hamblin's ranche with his team. Brought in six or eight children and left them at Bishop Klingensmith's; they ranged from two to six years old. Was ordered out by letter. Haight asked witness if he had received a letter; he said no. Afterwards heard that a boy had been to the house with a letter. Saw a team or two on his way to Hamblin's arrived there at night. Saw no one there but the woman and some Indian boys. Haight first informed witness of the massacre; he said the emigrants were all killed. The Indians had some stock, which he supposed had belonged to them.

CROSS-EXAMINED.—Saw a number of Indians going on a trail some distance off, some had horses and some were afoot. The children could not talk. Haight told me of the killing of the emigrants down in the old town.

THOMAS WILLIS RECALLED.—Saw the auction sale of the emigrants' goods; they consisted of cooking utensils, carpenters' tools, ox chains—only traps were sold. There was a considerable amount; the sale took all the afternoon. Haight told the people not to bid too high, as they might want their wheat. The goods were paid for in wheat rated at a certain price per bushel. The goods were carried away by the buyers, and the wheat collected afterwards and put in the tithing house.

WILLIAM MATTHEWS was next sworn. Lives in Washington County; spent the summer of '56 in Salt Lake City; arrived there June 6th, and left there August 26th, 1857, to return home in California. Did not see the train—heard of it in Corn Creek. Witness traveled the common road; stopped at Summit a short distance south of Parowan. Had ordered some corn there. Heard from Dame that the Indians had attacked the train, and accordingly stopped there for safety. Saw Dame again at Beaver; he said he had received a letter from Beaver inform-

ing him that the Indians had attacked the train going to San Bernardino. He borrowed a pair of my mules to go to Mountain Meadows; James Lewis was with him. While talking at Haight's, word came from the south country that the work was done. "Now," said I, "you will not want those mules." Dame replied, "Yes, I must go and see to burying the dead." Haight said the road was clear, and we could start next morning. Traveled all night, and next morning reached Mountain Meadows. It was before day, too dark to see; saw nothing that reminded me of the massacre.

WILLIAM YOUNG: Lived in Washington in 1857; still live there; was present at the massacre of the emigrant train. Among those engaged, remember Lee, Higbee, Bishop Smith, James Mangram, Slade, John Clark, William Stewart, George Adair; do not remember the names of the others. Saw Lee around camp and spoke to him there. Saw the flag of truce on the day of the slaughter; think William Bateman carried it; he placed a rag on a stick and went down with it, Lee was 200 or 300 yards off with some men; then he went down to the corral; a man came out and they had a talk. Lee then came back to the wagons and took two down with him, a span of horses to each wagon; arrived there, they loaded in clothing and other things and drove off; could see children in the wagons and some grown persons. Women and children followed by the wagons, then the men marched out. They went on till the procession struck the Cedar City road, and arrived opposite the soldiers' camp at the spring. Witness was walking along studying over the condition of things, when he heard guns fired. Don't know who fired them. Four others went with me to see what was doing. Stood 300 or 400 yards off; saw men on the ground; didn't see the emigrants fall, but saw the bodies afterward. There might have been twenty-five men killed; saw some of the women slaughtered; saw the Indians kill as many as four; saw an Indian kill a woman with a child in her arms, another Indian killed a boy by pounding him with a rock. Stood about 100 yards off. The women stood between the wagons and the men. When the rush was made the women ran back towards the men. The Indians headed them off; saw some of the women fall. The boy witness saw killed was about thirteen years old; the Indian threw a stone on his breast. Went nearer after the affray was over, and saw some of the bodies. Can't describe the wounds, it was a hasty time. Didn't like to look at them. Looked round and saw a sick man coming from camp; returned to camp with him and stayed there all night. The camp was 300 or 400 yards from the bodies. The witness here described the corral and the manner in which it was fortified. Found wagons there, but no loose property. Saw some men there, Dame and Haight amongst them; Haight was making a lamentation.

CROSS-EXAMINED.—Left Washington by order of the Presiding Elder. Traveled to the Meadows over the Santa Clara road. Four or five men accompanied witness; passed Hamblin's house; the ranche is north of the Meadows; met eight or ten Indians with a lot of cattle, who appeared hostile. Then met another small party, one of whom was shot in the ribs, and was bleeding badly.

The defense here asked a number of questions about the Indians of the Territory and their habit of raiding trains and putting the settlers in jeopardy of their lives, with a view to produce upon the minds of the jury the impression that they were masters of the situation at Mountain Meadows and had compelled the whites to take part in the massacre; but such testimony was ruled out as new matter.

SAMUEL POMEROY was the next witness sworn. Was present at the Mountain Meadows; reached the ground two and a half to three days before the massacre. Left Cedar City with quite a number of others; their names were Robert Wylie, William Bateman, Charles Hopkins, Ezra Curtis, and, I think, Thomas Cartwright. Went by order of Ezra Curtis, my superior officer. Witness was a private. Heard the firing of guns before coming in sight. When arrived in view, found the Indians entirely surrounding the corral; every person who showed himself was shot at. The Indians were concealed in the hills and in the brush; saw

a force on the ground from other places, thought there were about thirty white men armed. Found a place to camp about a mile off at a spring on the side of a hill. The second or third day the Indians withdrew from sight. A few white men went down, Lee, Smith and Higbee were amongst them; a light-colored flag was carried on a staff; saw some people come from the camp and sit down to talk; then they went inside, that is, two of the party, and an hour or two was spent there. The soldiers remained stationary by the roadside; saw wagons loaded up; don't know what with; then they started out. The people came out of the corral and followed on foot. When they drew near we could see women in front and men following them. When the men arrived opposite to where the soldiers were stationed, these latter marched along. Ten or fifteen minutes afterward heard a volley of shots, the Indians rushed out and all was confusion. Everything was in disorder; could faintly hear the yells. Concluded the thing was consummated and that none would be permitted to escape; then there was a rush of Indians to the wagons; supposed it was for plunder. When the Indians started for the wagons all was still. The whites went on towards Hamblin's ranche. The Indians rushed in from the right for the ravine.

The following day went over the ground and saw the bodies of men, women and children butchered in the most horrible manner; some of their heads were mashed in, apparently with rocks. Assisted in burying the bodies; found natural cavities and hollow places; the ground was too hard to dig. Buried the bodies separately, but sometimes three or four together. Did not know the names of any of the emigrants. There were nearly a hundred bodies.

CROSS-EXAMINED—Should judge there were from 400 to 500 Indians. The day we made camp the firing was kept up all day long at intervals; supposed the firing was from the Indians; the emigrants returned the shots. When ordered to march witness was at work in his shop. The Lieutenant said: "News has come that the Indians have about massacred the emigrant company that passed through here. We want to raise a posse to save the remainder. Get your gun and spade and be ready in an hour." Don't know why there was so much delay on the ground in going to the relief of the emigrants. No explanation of the delay was given. Lee came the morning after our arrival with two chiefs. The Indians ran from the wagons to the hill in a stream, as though packing off articles and hiding them away. Cattle were brought up, hitched to the wagons and driven off to Cedar City. Bishop Smith directed the affair.

BY THE COURT.—The two wagons that started from the corral continued on to Hamblin's ranche; couldn't tell whether they carried any persons.

CROSS-EXAMINATION RESUMED.—About half the Indians were armed with guns, all had bows and arrows. Where the bodies lay the ground was covered with arrows.

JOHN SHERRATT (a deaf mute) saw the property of the emigrants at the Cedar City tithing house. Attended the auction sale; thinks Lee was the auctioneer, he sold witness a stove shovel.

In the afternoon Judge Sutherland offered to read a surgeon's certificate of disability he had just received by telegraph from Salt Lake. It set forth that Brigham Young and George A. Smith were too feeble to travel, without mentioning any active ailment they were suffering from. The learned counsel then informed the Court that a notice had been served upon Mr. Carey to the effect that at 12 o'clock to-morrow (Thursday) Mr. William Clayton, a Notary Public, would take the depositions of these two persons, and inviting Mr. Carey to appoint some attorney in Salt Lake to be present and cross-examine the absent witnesses, and offering to pay the cost of telegrams and attorney's fees. He wished an order from the Court requiring Mr. Carey to make such appointment. Mr. Carey objected to any such requirement being laid upon him. The Court pronounced the application irregular and improper. The officers of the Govern-

ment were here representing the people, and could not be in Salt Lake at the time specified. He had no authority to require the District Attorney to appoint deputies when his deputies were present in Court prosecuting a criminal case. Sudden exigency could not be pleaded, because the trial had been nearly two weeks in progress, and ample time had been afforded the defense for the proper production of their testimony. Further, the defense had announced themselves ready to go to trial; if their witnesses failed them now, it was their misfortune, regular forms of procedure must not be departed from.

WILLIAM BRADSHAW testified that he lived in Cedar City in the year 1857; lived there from the fall of '52 to '59; saw three wagons of the emigrant train. Two weeks after the emigrants passed, orders came for men to go to bury them, it being reported the Indians had killed them. Witness presented himself with a spade before Major Haight, who asked him for his gun. Witness replied he didn't know what use he should have for a gun to bury the dead with. "Oh!" said he, "you are a fool, you don't know beans, you may go home, I have no use for such as you." After the emigrants had passed, Haight preached in Cedar City at Sunday meeting and said some old fools have been tampering with the Indians; if they had kept aloof the emigrants would have been dead and in their graves by this time. Never mind, he added, they (meaning the emigrants) have only gone further into the net. Subsequently Haight preached in the meeting that nothing must be said about the massacre. Witness saw a wagon in the possession of Ira Allen which had belonged to the emigrants; judged it was emigrant property because the body was full of bullet holes. Saw five or six of the children; two were taken by Charles Hopkins, Bishop Burbeck took another, and Higbee had two more; they were gathered up afterwards and sent to their relatives in the States. One boy suddenly disappeared from Higbee's a few weeks after the massacre.

ROBERT KERSHAW has lived in Beaver eighteen years; saw the emigrant train pass through the city about the first of the month; there were thirty-one wagons. Witness visited their camp; there were one hundred or more persons, men, women and children; principally ox teams, three yoke to a wagon, besides mules and horses and quite a drove of loose stock; don't know how large. Before the arrival of the emigrants, George A. Smith visited Beaver and preached in the tabernacle; he said the emigrants were coming, and forbade the people trading with them under penalty of being cut off from the Church. John Morgan traded a small cheese for a bed quilt and was cut off two or three weeks after. George A. Smith was traveling south. The emigrants stopped in front of witness' house; had a good garden and they wanted to buy vegetables, but witness had been forbidden to trade with them, and refused to sell. George A. Smith had forbidden intercourse in his address in the public square; he came three days before the emigrants. Samuel Dodge was employed as a special policeman to stand by the train and intimidate people from trading with them.

CROSS-EXAMINED.—The emigrants came in about ten or eleven o'clock on Saturday, and left the next day. Visited their camp because they were strangers and wanted to get news from them. Stayed with them two or three hours. First heard of their coming from George A. Smith. There was no excitement existing at the time. He said Johnston's army was coming, and the people would want food for their own support. It was expected the Mormons would have to fight them.

E. C. MATTHEWS was next called. Lives in Beaver; in 1857 was going to California along the southern route; passed Parowan early in September; there were twelve or fourteen in the company; witness and his father, Sidney Tanner, a son of Amasa Lyman, and others. Purchased some grain in Parowan; camped in Summit, and stopped over a day there. Camped next at Cedar City. Drove two span of mules to a wagon, some wagons had three span. Saw Dams at Cedar City; he borrowed a span of mules from witness' father and started out.

Dame said that the Indians had attacked an emigrant train, and he was going out to see about it. Higbee and Lewis were with him; met them coming back at Leach Springs, twelve miles from Cedar, and he returned the mules. Next reached Pinto Creek, twelve to fifteen miles south of Leach Springs. Passed through Mountain Meadows at early dawn, just the gray of the morning; saw bodies lying on the left side of the road; they were the remains of white people; made no halt; saw three or four bodies; they were entirely naked and lying some little distance apart. Drove on to Cane Springs, two and a half miles, and there camped.

JAMES PRABOE is thirty two years old; lived in Payson in the fall of '57; saw the train as it passed through Payson; there were from thirty to forty wagons in the train; drove loose cattle, but don't know how many. It was harvest time when they passed; saw the train afterwards at Mountain Meadows. Four days after the train passed witness started for Washington to remain there. The train traveled slowly, as the animals were poor. Corraled at the south end of the Meadows, four miles from Hamblin's ranche. Witness saw them three or four times in corral; was camped a mile and a half away. He went because he was asked to go along with the crowd. Most of the Washington company carried guns. Witness carried a gun. There was a general talk that the train was passing through and would have to be stopped. Witness was a stranger there, went because he was asked; was told to take a gun along; did not imagine why. Others carried guns; it was a frontier Indian country, and every man packed his gun and six-shooter along. There was some talk of stopping the emigrants, they said there were mobocrats amongst them, that they had been in a mob in the United States who had threatened to clean out the Mormons; the talk was they had been poisoning springs and committing outrages by the way, that they had helped kill old Joe Smith, and would come back from California and drive out the Mormons. Didn't know whether the aim of the expedition was to arrest or kill the emigrants. There were others along as ignorant as himself of the object. Camped in a hollow a mile and a half east of the corral; could see it from a neighboring hill; there was another camp just below; they were all strangers to witness; there were about twenty men in both camps—might have been more. Among those present were William Young, Slade (since dead), Clark (also dead); thinks he saw Higbee, not certain; didn't know Lee, but thinks he was there. Saw Klingensmith. Remained in camp two days. A man talked about arresting and killing the emigrants off; some favored and others opposed. Didn't know the leaders; those whom he took for leaders said they must be put out of the way. Witness was a boy at the time; sat round the camp fire and attended strictly to his own business; had no knowledge of their plans. The men finally shoved out of camp, and were gone half a day. He was as hungry as a wolf, and ate heartily of fresh beef, which made him sick. Heard the report of guns, and then the soldiers dispersed, the party from Washington going south. They said the emigrants were all killed. Saw lots of Indians, some came to camp, but showed no hostility. Saw some white men talking to them, they were to be seen around at all times. Some time on the morning of the massacre they all disappeared. Witness was sick and stayed in camp; saw no one killed. About the time they broke camp, saw the emigrants' property in wagons going north, witness' company started south. Heard considerable firing while in camp; there was a talk that the emigrants had been attacked before we arrived; didn't hear by whom. There were six or seven in the Washington company.

E. W. THOMPSON: Lives in Beaver; saw the train pass through town. They camped on the Beaver River, just across the creek; this was the first half of the month. Saw men and women in the company; they seemed a respectable class of people; had horse and ox teams and a herd of loose cattle. Had heard previously that the emigrants were coming. At a meeting the Bishop or Clerk read a letter counseling the people not to trade with the emigrants. (Objected to.) Don't know that George A. Smith passed through. Philo T. Farnsworth was Bishop at that time. Did not hear George A. Smith speak during September, 1857.

JOHN MCFARLANE lives in St. George; is a surveyor and attorney-at-law. Described the boundaries of Washington County, and testified that Mountain Meadows Valley is in Washington County.

JAMES PEARCE recalled by the defense. Thinks he saw Klingsmith at Mountain Meadows; seemed to be an officer—a captain of such like; he had a good deal to say. Returning to Washington, the Indians showed themselves hostile. Witness understood that a chief had been killed, and they were mad about it. The Indians farmed some along there—had cornfields. There was a great Indian camp on the Santa Clara.

FRANK KANE saw the train first at Pacific Springs, South Pass. It was camped there. Witness was coming towards Salt Lake, and he traveled with the company as far as Emigration Canyon. Was with them two weeks. They had a good many horses, some mules, ox teams and loose stock; there were from twenty-five to thirty wagons. Another train joined them, this was called the Illinois train. Heard they divided up south of Salt Lake, and that the Illinois train took the northern route.

ISAAC RIDDELL lived in Panguitch Valley in 1857, forty miles from Washington. Heard of the train when in Pinto Creek; camped on Mountain Meadows. Has been at Mountain Meadows many times; was there a year and a half after the massacre; saw some human bones. The main California road from Pinto Creek runs to Mountain Meadows going west. Saw armed men between Pinto and Cedar City; they carried guns. There were seven in the party, Higbee and Stewart were among them; they said they were going to the Meadows.

WILLIAM ROBERTS has lived in Parowan twenty-two years; saw the emigrants in Red Creek bottom. Was busy harvesting when he saw them. Talked awhile with two of the company; saw there was quite a number of families. Heard Dame preach about them at Parowan, he said we were to sell them no provisions. Dame was present and talked with Lee about the massacre. Lee mistook witness for another man of the same name, and took him severely to task for having spoken abusively of Lee for the part he had taken in the massacre. When he discovered his mistake he said to witness: "It is true I had a hand in the massacre, but they were mobocrats; they had helped to kill the Prophet Joseph Smith, and they deserved their fate."

Two or three other witnesses were examined by the prosecution, but as their testimony was merely confirmatory of the statements of preceding witnesses, it is not worth while reproducing it here. The prosecution rested.

CHAPTER V.

THE CASE FOR THE DEFENSE.

The prosecution occupied five days in taking testimony, from Friday, July 23d to Wednesday, 28th. We have not interrupted the statements of the witnesses to give any report of the arguments of counsel as to the character of the evidence that should be admitted, but before proceeding to the case for the defense, interrupt the narrative for awhile to notice a keen forensic encounter which occurred on Tuesday, the 27th, between Mr. Baskin and Judge Sutherland, which occupied the attention of the Court nearly two hours. The discussion grew out of the cross-examination of the witness Samuel Pollock, a participant in the massacre, whose sympathies were evidently on the side of the defense. The examination in chief had been conducted by Mr. Carey, who required the witness to relate all that was done on the field, but to repeat nothing that was said. On

cross-examination the defense very persistently endeavored to get in as evidence what was said by the prisoner and others, which was always objected to, and always ruled out by the Court. This led to the discussion, the noon recess being devoted to a search through authorities. The prisoner's counsel had already developed their line of defense. The intention was to show that it was an Indian massacre, that the red men were masters on the field, and compelled the whites to take part in the butchery by placing them in *DURESS PER MINAS*—that is, holding them in restraint by threats. The effort to elicit illegitimate testimony from the witness Pollock precipitated the controversy.

Mr. Baskin took the position, and quoted abundant authority to sustain his view, that a defendant cannot justify unlawful killing. Except in cases of self-defense, or in defense of property, or of accidental killing, all taking of life is unlawful, and the law presumes malice and premeditation. Nor can acts and declarations be produced to justify the offense, because a man contemplating murder could mould circumstances to disguise his motive and then shield himself from punishment. What he says against himself can be produced in testimony, because a man is not apt to make declarations to his own injury; what he says in justification, previous to the killing or at the time of taking life, cannot be put in evidence, because his object in making these declarations may be to deceive.

Mr. Sutherland argued at great length, and with a good show of plausibility, to controvert this argument. He made an elaborate statement to convince the jury that the Indians of all Southern Utah were collected on the ground to lord it over the sparse settlers, and compassing the destruction of this Arkansas emigrant train, found their victims' means of defense beyond their mode of warfare; then, repairing to the settlements within fifty miles of the scene of murder, by threats and comminations, compelled the peaceable inhabitants to go out and take part in the assassination.

Mr. Baskin replied to this argument by quoting Blackstone, who lays it down that a man under *DURESS* is not justified in killing an innocent party, because his social duty requires him to give up his own life rather than take the life of an unoffending person. The ruling of the Court was in accordance with Mr. Baskin's views.

At the opening of Court on Friday, Mr. Wells Spicer commenced the case for the defense with an elaborate opening address. "Eighteen years ago to-day," he said, quoting from District Attorney Carey's address, "a large emigrant train, richly laden with property, was wending its way across the continent in search of new homes in Southern California. So far," said the learned counsel, "I have followed the prosecution; but the prosecution has followed Mrs. Stenhouse too closely for me to continue with them longer. The emigrants were proceeding to California, a destination they were doomed never to reach." The speaker described the train as it has been shown in evidence. It consisted of upwards of one hundred people from the State of Arkansas, with twenty to thirty-one wagons and three to four yoke of cattle to each wagon. A herd of loose cattle was driven along. Having passed through all the settlements of Utah, these emigrants entered upon the desert which stretches between those small towns

and the Pacific Coast; there all the company perished—men, women and children. Speaking of this terrible tragedy, he should not attempt to gloss over its enormity, but should agree with the prosecution in characterizing it as one unsurpassed in the world's history, in wantonness, treachery and cruelty. A tragedy which makes the heart sick to think of, men, women and children slaughtered indiscriminately.

Indians were there, although the butchers were not all Indians; while men also took a part, with hearts as black as were ever carried by savages. Orders were given for the slaughter, and by an authority so dread and absolute that it compelled obedience. The speaker would not cast blame upon the Mormon Church for this unparalleled crime, because like every society that has existed since the world began, there are good and bad men who compose it. The speaker here drew a deeply affecting picture of an ideal Saint, who believes in the everlasting priesthood, asks no questions, and attends strictly to his own business.

That bad men should seek communion with the Mormon Church, he thought in no way remarkable, being militant in a frontier country and surrounded by Indians. This exposure to peril—this life of daring and adventure, would naturally attract desperate men into the fold of the Church. The massacre at Mountain Meadows, the speaker believed, was perpetrated by two classes of white men. Some who took part in the butchery were solely prompted by the dictates of their own wicked hearts, men who never cast a glance forward to the time when the law would step in and avenge the lives they had sacrificed; others who obeyed instructions. The counsel here quoted Scripture to show that the people of Ai were slaughtered by the direct commandment of God. If the prosecution attributed this massacre to the same Almighty cause, the counsel for the prisoner would have a strange case to defend. The young mother with her babe at her breast, slaughtered by Divine commandment. He did not say these victims from Arkansas were put out of the way to appease Almighty wrath, but they were immolated by orders. When the jury think over this sickening deed of blood in all its revolting details, they cannot believe that American citizens—foremost in the world for their devotion to law and chivalrous regard for the sex—could be guilty of so fiendish a deed. To tear the babe from its mother's arms and wantonly murder, both in cold blood, and this without conceivable motive, cannot be reconciled with our reason. There must have been some all-controlling cause, which impelled these men to steep their souls in so inextinguishable a crime.

Not a scintilla of evidence has been adduced to show that John D. Lee raised his hand to slaughter a single individual. He was present at the scene, the speaker did not deny, but no one of the many victims was sent out of the world by any physical act of the prisoner. The people of the United States may hold him guilty of moral turpitude, but evidence can be produced to show to the sense of all that he is guilty of no crime.

The speaker then gave the substance of Mrs. Stenhouse's narrative, and proceeded to upset her statements. He said he should show that the emigrants did not camp by the river Jordan, that they were treated well in every settlement they passed through, and were abundantly supplied with food.

The emigrants outraged and insulted the inhabitants who had befriended them. There were bad and lawless men in the train—young fellows from the wilds of Arkansas, hunters and trappers, reckless in their conduct, and without regard for the rights of property. The better disposed amongst them endeavored to still this insubordination, a division arose between them and two Captains of the train were appointed. All the trouble that afterwards overtook these emigrants was due to their own rash acts. A state of war existed in this country. Vast armies of the United States, commanded by a Major-General, were marching towards Utah. The people menaced with these approaching forces, had met in council and resolved to burn their homes and flee to the mountains, leaving a desolation behind them as complete as at Moscow. It was necessary to carefully husband their supplies, yet the settlers sold freely to this train.

They arrived at Corn Creek and encamped, and here the serious trouble began which led to the total destruction of the train. Here is the home of a large body of Indians, called the Pah-vants, of whom Kanosh is chief. These aborigines raised corn and offered to sell some to the emigrants. The latter declined, they had abundance. A collision occurred between the whites and an Indian. The speaker would cast no blame upon the emigrants, but he stated this as a positive fact, if they had not molested the savages, they could have passed through the Territory without molestation, as other trains before and since have done. It was nothing more nor less than an Indian massacre. Some whites took part in the butchery, but this was also the case at Deerfield, at Wyoming, and (if we read American history) at every similar tragedy that stains our Colonial annals.

The speaker then advanced another theory. He referred to the suffocation of 123 British soldiers in the Black Hole at Calcutta. He could not give the name of the tyrant who ordered the immolation, whether Nena Sahib or Hyder Ali. But while his agonizing captives fought and struggled for the vital air, and the guards placed over them were moved to tears at the sufferings, this despot slept serenely and at ease, and they durst not wake their master to tell him of the sufferings he had inflicted.

The speaker shadowed forth in indeterminate language a parallel between the Mormon chief and this somnolent Asiatic. The destruction of this train had been resolved upon, and the abject slavery to which the Prophet's followers were reduced, compelled the execution of this cruel mandate, and none durst appeal to him for clemency.

Putting in a good word for his client, then, the speaker referred to a dream unfolded to the prisoner which revealed the impending destruction of the emigrant train by a band of infuriated savages. The tender-hearted butcher believed the yarn, and frantically called for five men to rush out with him upon the field and avert the massacre. And when the fiendish act was in full headway, John D. Lee was the only man who lifted up his voice and wept. From that hour the Indians called him "Yah-guts" (cry baby).

The counsel painted the prisoner as a moral hero. All his brethren upon the field were paralyzed with a dual fear: the Indians they regarded as dangerous allies, and those dread orders demoralized them like a flanking fire. But Lee stood out like a man, protesting against the slaughter of the innocents, and he could only be induced to subside when Higbee drove him from his recalcitrancy by pointing a loaded rifle at his head.

The noon recess left the learned counsel with his speech about half delivered. During noon his associates concluded that such a line of argument was more damaging than salutary. The chief object of the leading counsel was to protect the First Presidency from incalpnation, the defense of Lee came in as an incident. Mr. Spicer's triangular argument, making orders from the First Presidency first responsible, then the approach of Johnston's army, and thirdly the suicidal folly of the emigrants in stirring up strife with the Indians, was considered ill-digested and too multifarious for adoption. They jocularly called this singular opening speech, "Spicer's boomerang," and they feared the more he used it against the enemy, the more it would rebound and hurt his friends. At the re-assembling of Court, Mr. Spicer read for about five minutes from a manuscript bearing the characters of one of his associates, in which he adroitly took back all he had said in the morning, and left the gentlemen of the jury in a hopeless state of mystification.

TESTIMONY FOR THE DEFENSE.

JESSE N. SMITH (cousin to George A. Smith, and a kinsman of the martyred prophet), was placed upon the stand—Lived in Parowan in 1857, came to Utah ten years previously. Knew William H. Dame; saw the emigrant train at the town above-named; sold them flour and salt; had flour to spare and asked them if they wanted more; they wanted vegetables, but witness had none to spare. Saw George A. Smith in Parowan, August 8th; he came in from the north; went down among the settlements, witness accompanying him. A meeting was held in every settlement; witness attended them all. He (G. A. Smith) deprecated selling grain and breadstuffs to feed to horses and mules. Never heard him in his public addresses allude to this train. September 10th a young man came to witness with the message that Col. Dame wanted to see him at Parowan, as he (Dame) had heard a rumor that an emigrant train had been attacked by Indians, and he desired witness to inquire into the matter. Went with Edward Dalton to Cedar City; heard nothing but rumors about the attack there. At Pinto the news was that the emigrants were undoubtedly attacked and their cattle was being driven off. Went no further in the search of information, as he was told it would not be safe. Returned from Pinto and reached Parowan on Friday, the 19th. Made a report to Col. Dame, who returned no answer.

CROSS-EXAMINED—Neither witness nor Dame took any steps to call out forces to relieve the emigrants.

SEAS S. SMITH (brother to the last witness)—Lives in Paragonah, Iron county; has lived there since the spring of '57; came to Parowan in the fall of '51. Knows George A. Smith; saw him in August of '57, at Parowan, and traveled with him through the Southern settlements, returning with him to Cedar Springs, Millard county. George A. Smith, in his speeches, referred to the necessity of saving the grain and not feeding it to horses or stock; he disapproved of selling it for any such use. Heard nothing said to discourage the sale of provisions to emigrant trains for food. Witness camped at Corn Creek, and found the Arkansas train in camp there on arrival. Some of them came over to witness fire, and simply made inquiries. Nothing special was said; one of the party asked if the Indians would be likely to eat the flesh of an ox that lay dead near camp. Some said they probably would. George A. Smith, Jacob Hamblin, Bishop Farnsworth, witness and his brother, and some few others, composed the company. Two days after came to Beaver, passing the emigrants at Indian Creek, six or seven miles from here. Took supper with the emigrants there.

Four days after this, the emigrants passed through the town where witness lives, thirty miles south, and camped there. Spoke to some of the party; saw the leader; heard him called Mr. Fancher. Duke's party followed several days after. They got into trouble with the Indians near Beaver, and witness was sent over with ten men by Col. Dame, who called at his house to request witness to go to the relief of the emigrants. Reached Beaver at night, and in the morning found the train corralled and a rifle pit dug for their protection. Sent a runner, who brought in the chief, and witness placated the wrath of the red men by a liberal distribution of beef. The Indians claimed that some of their braves had been shot by men belonging to the train, and they must wash out the offense in blood. Witness understood that his intervention had settled the difficulty. Had no further connection with the emigrant trains. Witness was captain in the militia regiment; George A. Smith was an officer on General Wells' staff. Mr. Martineau was in the party who called the troops out for muster and inspection. The militia was mustered at two or three places—perhaps more. Col. Dame was adjutant; don't know whether he reported to G. A. Smith. Traveled with the last-named from Parowan to Santa Clara, 150 miles. Held five or six meetings on the way. George A. Smith invited witness to accompany him. The object of his visit was to preach to the people and instruct them to lay up grain for their future support. Col. Johnston's army was then approaching Utah. Heard nothing said against allowing emigrant trains to pass through the country. The Arkansas company at Corn Creek inquired where they could recruit their stock. Jacob Hamblin recommended Mountain Meadows, because the pasture was good there, and springs abundant. Never heard the massacre of these emigrants discussed. George A. Smith did not tell witness why he left Salt Lake alone to travel through the Territory. His only mission, so far as witness knows, was to counsel the people to save their grain, and not to feed it to stock. G. A. Smith stopped in his own house in Parowan. He had a family living there. Saw George A. talking to Dame and Higbee; don't know what was the subject of their conversation; don't remember seeing Lee at that time. The militia was on parade at Parowan when George A. arrived.

CROSS-EXAMINED.—Stopped at Harmony to take a meal. Remember nothing that occurred at that place. The question asked by the emigrants at Corn Creek about the Indians eating the flesh of a dead ox, was a direct one; nothing more was said on the subject. Two or three men came over from their camp to ours to inquire; no more was said. Witness suspected wrong motives toward the Indians. Entertained no suspicions of the company. Regarded them as rough fellows; they used blasphemous expressions; heard them swearing; can't repeat their language; heard several oaths uttered; they said "by God" several times; this was grating upon witness' ears. Couldn't positively say they were rough fellows, only formed this opinion of them.

ELISHA HOOPS was the next witness called, who testified that he lived in Beaver in 1857, and knew George A. Smith and Jesse N. Smith, ex-Bishop Farnsworth and sundry other shining lights of the Mormon Church. On September 27th of that year he accompanied the Smith party as guard as far north as Fillmore; camped at Corn Creek, and found the Arkansas emigrants encamped there, about 150 paces distant. Some members of the company came and talked to the Smith party; they inquired of George A. Smith where they could get grass and water to recuperate their animals, who referred them to Jacob Hamblin, and he designated Mountain Meadows as the best grazing ground. An ox lay dead between the two camps, and just as witness' party was about to start, he saw a little German doctor, who belonged to the emigrant company, draw a two-edged dagger with a silver guard—such as gentlemen carry—and make three thrusts into the ox. Next he produced a small half-ounce vial, filled with a light colored liquid, which he poured into the knife-holes. The question had previously been asked by these men whether the Indians would be likely to eat the carcass, and some thought they would. Witness did not see the train again.

Mr. Baskin then proceeded to cross-examine this witness on his poisoned ox

story. The Smiths and Bishop Farnsworth were in the wagon when the ox was tampered with; don't know if they saw it; did not call their attention to it, and no mention was made of the occurrence. Ten or fifteen minutes after the German had poisoned the ox, some Indians came up and dickered with him for it. They finally gave him some buckskins, and then began skinning the ox. Witness supposed the Indians wanted the hide to cut up into soles for their moccasins. Don't know how long they were flaying the animal, as witness' party was driving away at the time.

During recess at noon it was probably suggested to this man that he had told a very improbable story. He had set the little German doctor at work upon the ox just as Hoops' party were ready to start. Ten or fifteen minutes subsequently, a dicker is made with some Indians for the infected carcass (who would be very apt to purchase what would certainly be abandoned), and then they set to work flaying it.

On resuming the cross-examination in the afternoon, Mr. Baskin plied him on this miscalculation quite vigorously. The perplexed witness got out of his trouble by breaking the harness, which delayed their start half an hour. What part of the harness gave out he could not for a long time call to mind, but finally he settled upon a hame strap, which had to be repaired with buckskin thread. A number of searching inquiries, mercilessly followed up, involved him in hopeless confusion, and to relieve himself from his embarrassment he piteously appealed to the Court for protection. Himself he represented as being in the wagon, standing at the back of the wagon, and at the horses' heads repairing the broken strap. George A. Smith, a man advanced in life, and weighing 250 pounds, he had climbing into the wagon as the horses were stepping off. Further, he painted the emigrants as wholesale poison vendors, leaving bags of poison in every spring they passed. The man was a suborned witness, and his clumsy lies greatly damaged the cause he had been called in to aid.

On Saturday but little business was done, as the defense were reduced to the necessity of killing time in order to reserve the right to introduce the depositions of Brigham Young and George A. Smith, which were expected to arrive from Salt Lake the following evening.

Philo T. Farnsworth was first placed upon the stand, who, on direct examination, testified to nothing material, but on cross-examination effectually demolished Mr. Hoops' story. He remembered the dead ox, although he located it differently, and then told of an emigrant and two Indians chaffering over the body. But he remembered no accident happening to the harness, the German doctor he pronounced a myth, and whereas Mr. Hoops had the Arkansas company drawing out of camp at the time, Bishop Farnsworth left them safely corralled.

JOHN HAMILTON was the next witness sworn. Lived at Hamilton's Fort during the year of the massacre; this settlement is six or seven miles south of Cedar City. Sunday after the massacre either heard or saw some Indians with a quantity of stock in witness' grain field; saw they had blankets, quilts, utensils, horses, saddles, and quite an amount of cattle. Saw two head shot—supposes there were fifty Indians. They appeared hostile; did not tell them to go out of the field. The grain had been cut, but there was some corn remaining. The clothing consisted of men's and women's garments, and formed quite a pile. Witness noticed it was bloody. They had bed clothing piled up and scattered about. They were painted for war, but could not recognize them.

Cross-Examined.—The Indians committed no outrage on witness or on any of his neighbors.

JOHN HAMILTON, JR. substantially confirmed his father's testimony. He saw the emigrant train at Shirz Creek, moving westward. After the massacre saw thirty or forty Indians in his father's field, with stock, clothing and other property. Told the Indians he didn't want their stock in the lot, and they turned the animals out. Some of the Indians belonged to Cedar, two were wounded; the clothing was stained with blood.

CROSS-EXAMINED.—The emigrants had a large herd of loose cattle, should say there were 400 or 500 head.

Several other witnesses were placed upon the stand just to fill out the day, among whom Richard Robinson was the only one whose testimony had interest or relevancy. He was sub-Indian Agent at Pinto Creek at the time of the massacre. Four families composed the settlement; could have raised six able-bodied men. Knew Joel White and Klingensmith. Does not remember receiving a letter from their hands. Saw a letter sent from Haight to Lee after the emigrants had passed. (Contents of the letter objected to and ruled out.)

On Monday, August 2d, John McFarlane on the stand gave the names and reported the places of residence of some ten or a dozen participants in the massacre, and then Mr. Sutherland offered the depositions of Brigham Young and George A. Smith, which had already been ruled out as testimony. They were filed by the Clerk. The following are the utterances of these ancient personages:

BRIGHAM YOUNG'S DEPOSITION.

Q. State your age, the present condition of your health, and whether in its condition you could travel to attend, in person at Beaver, the Court now sitting there? If not, state why not?

A. I am in my seventy-fifth year. It would be a great risk, both to my health and life, for me to travel to Beaver at this present time. I am and have been for some time an invalid.

Q. What offices, either ecclesiastical, civil or military, did you hold in the year 1857?

A. I was the Governor of this Territory, ex-officio Superintendent of Indian Affairs, and the President of the Church of Jesus Christ of Latter-day Saints during the year 1857.

Q. State the condition of affairs between the Territory of Utah and the Federal Government in the summer and fall of 1857.

A. In May or June, 1857, the United States mails for Utah were stopped by the Government, all communication by mail was cut off. An army of the United States was en route for Utah with the ostensible design of destroying the Latter-day Saints, according to the reports that reached us from the East.

Q. Were there any United States Judges here during the summer and fall of 1857?

A. To the best of my recollection, there was no United States Judge here in the latter part of 1857.

Q. State what you know about trains of emigrants passing through the Territory to the West, and particularly about a company from Arkansas en route for California, passing through the city in the summer or fall of 1857?

A. As usual, emigrant trains were passing through our Territory for the West. I heard it rumored that a company from Arkansas, en route to California, had passed through the city.

Q. Was this Arkansas company of emigrants ordered away from Salt Lake City by yourself, or any one in authority under you?

A. No, not that I know of. I never heard of any such thing, and certainly no such order was given by the then Acting Governor.

Q. Was any counsel or instructions given by any person to the citizens of Utah not to sell grain or to trade with the emigrant trains passing through Utah at that time; if so, what were those instructions and counsel?

A. Yes; counsel and advice was given to the citizens not to "sell grain" to the emigrants to feed their stock, but to let them have sufficient for themselves, if they were out. The simple reason for this was that for several years our crops had been short, and the prospect was at that time that we might have trouble with the United States army, then en route for this place, and we wanted to preserve the grain for food. The citizens of the Territory were counseled not to feed grain to their own stock. No person was ever punished or called in question for furnishing supplies to the emigrants, within my knowledge.

Q. When did you first hear of the attack and destruction of this Arkansas company at Mountain Meadows, in September, 1857?

A. I did not learn anything of the attack or destruction of the Arkansas company until some time after it had occurred, then only by floating rumors.

Q. Did John D. Lee report to you at any time after this massacre what had been done at that massacre, and if so, what did you reply to him in reference thereto?

A. Within some two or three months after the massacre he called at my office and had much to say with regard to the Indians, their being stirred up to anger and threatening the settlements of the whites, and then commenced giving an account of the massacre. I told him to stop, as, from what I had already learned by rumor, I did not wish my feelings harrowed up with a recital of details.

Q. Did Philip Klingensmith call at your office with John D. Lee, at the time of Lee's making his report, and did you at that time order Smith to turn over the stock to Lee and order them not to talk about the massacre?

A. No. He did not call with John D. Lee, and I have no recollection of his ever speaking to me, nor I to him, concerning the massacre or anything pertaining to the property.

Q. Did you ever give any directions concerning the property taken from the emigrants at the Mountain Meadows Massacre, or know anything as to its disposition?

A. No. I never gave any directions concerning the property taken from the emigrants at the Mountain Meadows Massacre; nor did I know anything of that property or its disposal, and I do not to this day, except from public rumor.

Q. Why did you not as Governor institute proceedings forthwith to investigate the massacre and bring the guilty authors to justice?

A. Because another Governor had been appointed by the President of the United States, and was then on the way here to take my place; and I did not know how soon he might arrive; and because the United States Judges were not in the Territory. Soon after Governor Cumming arrived I asked him to take Judge Cradlebaugh, who belonged to the Southern District, with him, and I would accompany them with sufficient aid to investigate the matter and bring the offenders to justice.

Q. Did you, about the 10th of September, 1857, receive a communication from Isaac C. Haight, or any other person of Cedar City, concerning a company of emigrants called the Arkansas company?

A. I did receive a communication from Isaac C. Haight or John D. Lee, who was then a farmer for the Indians.

Q. Have you that communication?

A. I have not. I have made a diligent search for it, but cannot find it.

Q. Did you answer this communication?

A. I did, to Isaac C. Haight, who was then the acting President at Cedar City.

Q. Will you state the substance of your letter to him?

A. Yes. It was to let this company of emigrants and all companies of emigrants pass through the country unmolested, and to allay the angry feelings of the Indians as much as possible.

(Signed) BRIGHAM YOUNG.

GEORGE A. SMITH DEPOSES :

That he is aged fifty-eight years; that he is now and has been for several months, suffering from a severe and dangerous illness of the head and lungs; and that to attend the court at Beaver, in the present condition of his health, would in all probability end his life.

Deponent further saith that he had no military command during the year 1857, nor any other official position except that of one of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints.

Deponent further saith that he never, in the year 1857, at Parowan or elsewhere, attended a council where Wm. H. Dame, Isaac C. Haight or others were present, to discuss any measures for attacking, or any manner injuring, an emigrant train from Arkansas, or any other place, which is alleged to have been destroyed at the Mountain Meadows in September, 1857.

Deponent further saith that he never heard or knew anything of a train of emigrants, which he learned afterward, by rumor, was from Arkansas, until he met said emigrant train at Corn Creek, on his way north to Salt Lake City, on or about the 25th day of August, 1857. At Corn Creek, deponent further saith, that he encamped with Jacob Hamblin, Philo T. Farnsworth, Silas S. Smith and Elisha Hoops, and there, for the first time, learned of the existence of said emigrant train, and their intended journey to California.

Deponent further saith that, having been absent from the Territory for a year previous, he returned in the summer of 1857, and went south to visit his family at Parowan, and to look after some property he had there; and also visit his friends, and for no other purpose, and that, on leaving Salt Lake City, he had no knowledge whatsoever of the existence of said emigrant train, nor did he acquire any until as before stated.

Deponent further saith that, as an Elder in the Church of Jesus Christ of Latter-day Saints, he preached several times on his way south, and on his return, and tried to impress upon the minds of the people the necessity of great care as to their grain crops, as all the crops had been short for several years previous to 1857, and many people were reduced to actual want and were suffering for the necessities of life.

Deponent further saith that he advised the people to furnish all emigrant companies passing through the Territory with what they might actually need for breadstuffs, for the support of themselves and families while passing through the Territory, and also advised the people not to feed their grain to their own stock, nor sell it to the emigrants for that purpose.

Deponent further saith that he never heard or knew of any attack upon said emigrant train until some time after his return to Salt Lake City, and that while near Fort Bridger, he heard for the first time that the Indians had massacred an emigrant company at Mountain Meadows.

Deponent further saith that he never at any time, either before or after that massacre, was accessory thereto; that he never directly or indirectly aided, abetted, or assisted in its perpetration, or had any knowledge thereof, except by hearsay, as aforesaid.

Deponent further saith that all charges and statements as pertaining to him, contrary to the foregoing, are false and untrue.

This closed the case for the defense.

JUDGE'S CHARGE TO JURY.

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CHAPTER VI.

JUDGE BOREMAN'S CHARGE TO THE JURY.

GENTLEMEN OF THE JURY:—

The introduction of testimony for the prosecution and defense being now at an end, the duty devolves upon me in order to aid you in arriving at a correct conclusion in your verdict, to instruct you upon the law applicable to the cause, and to give you such suggestions and advice as the necessities of the case seem to require. What I say upon questions of law is obligatory upon you, but what I state respecting fact, is not obligatory upon you. The Court is the sole judge of the law of the case, but you are the sole judges of the facts, and also the credibility of the witnesses. The Mountain Meadows Massacre, which this case has caused for the first time to be investigated, was a crime of appalling magnitude, planned and carried out with a demon-like ferocity, unparalleled in modern days, or among civilized people, and it is of wide-spread interest, by reason of its enormity and its long concealment. There is no dispute as to the fact of the massacre at the time and place specified. It is charged, however, that this defendant was a participant and leader in this bloody work, and upon this charge he is now upon his trial before you. The prisoner at the bar, John D. Lee, is charged with this crime, guilty with W. H. Dame, Isaac C. Haight, John M. Higbee, George Adair, Jr., Elliott Wilden, Samuel Jukes, Philip K. Smith, and W. C. Stewart, but only the defendant Lee is now upon trial, and it is no concern of this jury whether any or all of the other defendants be arrested and tried or not. But it is only reasonable to suppose that

OTHERS WILL BE ARRESTED AND TRIED.

as speedily as it is possible to be done. You have only to do with the innocence or guilt of this defendant. In order to reach the truth in regard to the prisoner's guilt or innocence, it is perhaps the most natural, the massacre itself not being disputed; to inquire first as to whether there was any combination of parties in planning and executing this horrible deed, and if there was such combination and joint action, then whether the parties or any of them indicted with the prisoner were in this combination? If from the evidence you find such concert of action and co-operation among the parties charged or a number of them, and that the prisoner was jointly acting with them, he is guilty, even though it might not appear that he, with his own hands, did any of the killing. If only those were guilty who did the shooting and killing with their own hands, then in but few cases of this kind could the leaders be reached.

THE BARK AND PILE ALONE WOULD SUFFER.

It is not necessary to be shown that the defendant did with his own hands any of the killing; but if the killing were done by those with whom he was co-operating, though his part was not to do any of the killing, he is guilty; and if it has been in your opinion shown by the evidence, that he actually did any of the killing, that fact will be taken into consideration. If, however, you find from the evidence that there was no combination or agreement to joint action, then no act of any of the other parties would implicate the defendant, unless it was done by his own direction or consent.

In ascertaining whether such combination existed, it is not necessary that the evidence should show any express agreement; it is sufficient the acts, cause and conduct of the parties charged showed that an understanding existed, and that they were operating jointly for the accomplishment of the same end. If the evidence, in your judgment, shows others than those charged, acted and co-oper-

ated with those, then the prisoner would be held responsible for their acts, as they would be for his acts in pursuance of their common purpose—the work of any was the work of all—and if the parties engaged be allotted to different parts in the accomplishment of the joint purpose, some to stand guard, some to drive wagons, some to kill and some to do other parts of the common work,

ALL ARE GUILTY.

They all operated to secure one end—the slaughter of a number of human beings—men, women and children. If you believe from the evidence that the prisoner was at the massacre, then the question arises, was he there for an innocent purpose, and why did he go there? And if you believe from the evidence that he participated to any extent in the accomplishment of the common object, it is for you to say from the evidence why he so participated. It is claimed for the defendant that the Indians were very much incensed at those emigrants who were killed at Mountain Meadows. If this be true, and that a great number of Indians were engaged with the whites in the massacre, (and there is no doubt that very many Indians did participate,)

IT IS NO DEFENSE

to the whites for their participation. There is no evidence that any force was used to compel any white man to join in the murder; nor is it shown that any white man had any just cause for engaging in these murders, and the only pretended reason is, that the Indians were greatly incensed at the emigrants. But that is not a valid reason for the whites engaging in the massacre, nor does the evidence show any good ground for the Indians engaging in the massacre. But as to that question you are not called upon to decide. If from the evidence you believe the Indians were co-operating and acting in concert with the whites in the accomplishment of the destruction of the emigrants, it but makes a more vivid picture of the enormity and brutality of the inhuman work. The charge in this case is murder, but it is not only the killing of a human being that is murder. Besides the two degrees of murder, there is manslaughter and also justifiable or excusable homicide. Murder is the killing of any human being with malice aforethought, either express or implied. Malice is a revengeful act done intentionally and without good cause or excuse. If, therefore, you believe from the evidence that the killing in this instance was willful, deliberate and premeditated, and with malice aforethought, and that such killing was in pursuance of a common design or purpose, to which common purpose the defendant was a party, he is guilty of murder in the first degree, and you will so find.

Malice is an essential ingredient in the killing to constitute the crime of murder, but it need not be express; but may be implied from the acts, course and conduct of the parties. In most cases malice is not susceptible of direct proof, but may be established by inferences, more or less strong, to be drawn from the facts and circumstances connected with the killing, and which indicate the disposition or state of mind with which the killing is done. If, however, you could find from the evidence that the killing was with malice aforethought, either express or implied, but was not willful, deliberate and premeditated, it would be murder in the second degree; and if the killing was unlawful, but you find from the evidence that there was no malice, the crime would be manslaughter. If you believe from the evidence that there was malice, the offence is of a higher grade than manslaughter, and if there was malice and the act was willful, deliberate and premeditated, it cannot be murder in the second degree, but is of a higher grade still, and is murder in the first degree. Then, in that case, it is murder in the first degree or nothing; that is, if it be not murder in the first degree, it can only be justifiable homicide or excusable homicide. To be justifiable homicide, it must have first arisen from unavoidable necessity without any will, intention or desire, and without any inadvertence in the party killing, and therefore without blame, as for example, the execution according to law of a criminal who has been lawfully sentenced to be hanged; or, second, it must have been committed for the advancement of public justice—for example,

if an officer was assaulted and resisted, and should kill his assailant. There is no evidence which could be classed under either of these heads of justifiable homicide. A homicide can be excused only in two ways. First, when the act was what is called a misadventure, that is, where in doing a lawful act, the party without any intent to hurt, unfortunately kills another. Second, when a party acting in self-defence kills another person. There is no evidence that these were killed whilst their assailants were doing a lawful act, nor is there any evidence that those who did the killing were acting in self-defence, or in defence of their families or property. If, therefore, as I have stated, you find from the evidence that the killing was done willfully, deliberately and premeditatedly, and with malice aforethought, you will find defendant guilty. But if you find from the evidence that it was not done willfully, deliberately and premeditatedly and with malice aforethought, you will acquit the prisoner.

The burden of proof of defendant's guilt rests upon the prosecution, and it is for you to say whether they have made out a case or not. In reaching a conclusion as to the prisoner's guilt or innocence, it is not necessary that it be shown that all or a great number of persons were killed, but it is sufficient, if from the evidence you find that one human being was killed, provided the killing shall have been done by combination. Nor is it necessary that the name or that the names of those killed should be shown; but if any of them were killed in the manner and form as charged, it is sufficient. Before you can find the prisoner guilty, you must from the evidence believe beyond a reasonable doubt that the prisoner is guilty, and taking the whole evidence together, it must exclude every other hypothesis but the guilt of the prisoner.

A reasonable doubt is only such a one as would arise in the minds of reasonable men, such as you are, who are selected because it is supposed and expected that you are reasonable men and competent to try such a question. Proof beyond the possibility of a doubt is not required, because such proof can never be made. It is not necessary to show you that it is not possible that the prisoner is innocent to show beyond the possibility of a doubt that he is guilty. But it is required that the prosecution produce such evidence that when you look it over reasonably then you do not doubt the prisoner's guilt; that the evidence produces in your minds an abiding conviction to a moral certainty of the guilt of the defendant. Proof beyond a reasonable doubt is something more than the preponderance of evidence. A preponderance of evidence will do to support a verdict in a civil case, but not in a criminal case. You must be satisfied from the evidence beyond any fair reasonable doubt of defendant's guilt. You must have an abiding conviction to a moral certainty of his guilt, or you should acquit him. But absolute certainty of guilt is not necessary; moral certainty is sufficient.

Jurors are, as I have before stated, sole judges of the credibility of witnesses, and it is for you to say upon your oaths what degree of credit is due the testimony of each witness; and it is for you to say upon your oaths whether you deem the testimony of any witness unworthy of belief. In order the more specifically to give the law to you, I will read the instructions given.

First. Such instructions as are asked by the prosecution and as I have allowed. 1st. To authorize the jury to find the prisoner guilty, his guilt must be proved beyond a reasonable doubt and by proof which convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it, is proof beyond a reasonable doubt, if it leaves in the mind an abiding conviction to a moral certainty of the truth of the charge.

The other instructions we condense as follows: 2d. That a mere possible doubt is not a reasonable doubt. 3d. That it is not necessary to prove Lee actually killed any one of the emigrants with his own hand; but if he was present and aided and abetted the killing, it is sufficient. 4th. The jury must utterly disregard the ruled out testimony. 5th. It is not necessary to prove that a person named John Smith was killed at the massacre in order to convict Lee, if the jury believes there was one or more of the emigrants killed by Lee, or that he aided and abetted in the killing of emigrants whose names are unknown. 6th. One may be principal in a murder without doing the deed with his own hand. It is enough

if he aided and abetted the act. So if the jury believes beyond a doubt that either Lee or any of the defendants acted jointly and with malice aforethought, then the jury must find a verdict of

MURDER IN THE FIRST DEGREE.

The burden of proving that the killing was willful, rests upon the prosecution, which it must show beyond a reasonable doubt. In determining these facts the jury should look to the fact of the killing in connection with the attending facts, as shown by the evidence.

INSTRUCTIONS FOR THE DEFENSE

were given, which we condense as follows: 1st. There must be a union of, or joint operation of, act and intention, or criminal negligence. 2d. The presumption of innocence prevails, and is to be destroyed only by such an amount of evidence of guilt as is calculated to produce the opposite belief. 3d. The circumstances must exclude to a moral certainty, every hypothesis but that of guilt. 4th. Defines at length what is a reasonable doubt. 5th. The establishment of a *PRIMA FACIE* case merely, does not take away the presumption of innocence. 6th. The charge of combination of defendant with other persons to commit the crime is a question of fact to be found by the jury. If the jury believe there was no such combination, and that defendant took no part and did not kill any person as charged, the jury must acquit. 7th. The proof must show defendant guilty of the particular crime charged. 8th. Defendant is not responsible for the acts of other persons, done without his consent. 9th. Defendant is not to be affected by the declarations of others, made in his absence, unless the jury believe there was an agreement of confederation and that the declarations were made to further the same. 10th. Lee cannot be convicted if the jury finds he did not kill one or more emigrants, or did not abet their killing, unless they believe he committed acts to make him an accessory. 11th. To convict, it must be shown that Lee by acts or words, at or before the killing, consented to or advised the killing. 12th. It was not unlawful for defendant to go to the Meadows while the emigrants were camped there, and further, if he went there to persuade the Indians to desist, or to bury the dead, and for no other object, such going was not only innocent but laudable and humane. 13th. If persons of influence caused the men to go to Mountain Meadows ostensibly for a good purpose, and not for a bad purpose, the act of going there and being present and not taking any part or abetting, is not evidence against defendants of any other intention than to accomplish such ostensible purpose, unless they had notice of the real object. In the absence of such proof of notice, the law presumes no guilty knowledge or intention.

Attorneys for the people and also for the defense will now address you, as is their right, aiding you to reach a correct conclusion in the case. Now, gentlemen, the duties which devolve upon you are very responsible, but you should act

THE PART OF INDEPENDENT JURORS,

disregarding any and all outside influence, looking to the evidence adduced, the law as given by the Court, and your own oaths as your guides. Be careful to do right. Your duty is not only to the prisoner at the bar, but also to the people and your own consciences. Your action will be looked to with great interest far and near, and it behooves you to act candidly, carefully and conscientiously.

CHAPTER VII.

ARGUMENTS OF COUNSEL.

The following day, Wednesday, August 4th, District Attorney Carey opened the argument for the prosecution. The following is the substance of his address:

GENTLEMEN OF THE JURY:—The Court has alluded to the heavy responsibility resting upon you, and to the deep interest felt throughout the country in your verdict. Perhaps the decision of no twelve men similarly placed was ever waited for with greater anxiety. Do your duty as becomes you. The evidence produced in this case shows that eighteen years ago one hundred or more men, women and children were murdered in cold blood at Mountain Meadows. Neither age nor sex, manly courage or womanly virtue, the beauty of the maiden or the innocence of the child, arrested the hands of the assassins.

FOR EIGHTEEN YEARS JUSTICE HAS SLEPT.

At first the story went forth that the murder had been committed by Indians; but the truth could not be forever concealed, the consciences of those who had been engaged in the crime became so burdensome to the criminals that they were compelled to divulge the damning truth. For eighteen years some of the guilty parties have rioted in their ill-gotten gains.

See these emigrants as they pass through Utah. Why were they not murdered before they reached Mountain Meadows? Because the crime contemplated was so terrible in its nature that those engaged in the conspiracy were ashamed to face the light of day. In the southwestern corner of this Territory, in the defiles of the mountains and amid the unbroken solitude of nature, hundreds of miles away from civilization, the inhuman murderers thought there would be no difficulty in saddling the massacre of these emigrants upon the Indians of the vicinity.

The speaker then reviewed the incidents of the hellish plot as set forth in the testimony. But the plan was defeated by the bravery and resolution of their victims. It was found that something besides Indian warfare must be employed to dislodge this company of emigrants brought to bay. Reinforcements were sent for to Cedar. One man goes to Harmony and tells the fearful tale. Reinforcements are promptly sent from there. Who is the man that called the meeting, and when the emigrants were sleeping the sleep that knows no waking, impiously raised his hands to heaven and thanked God that the deed was done? That man was John D. Lee, the prisoner at the bar. It is not necessary to go over the evidence. One witness after another has piled the testimony up mountains high, burying the defendant under the weight of accumulated guilt. These treacherous assassins, with John D. Lee for their leader in the bloody work, were not willing to go out into a manly fight and risk life against life in the scheme of extermination. No, he takes a white flag along, that by treachery he may accomplish what he lacks valor to win by open means.

There was malice in the crime. These unoffending emigrants were the victims of malice from the time they reached Salt Lake till they yielded up their lives at Mountain Meadows. The people at every settlement refused to sell them supplies, and we have heard of but two or three instances where they dared to disobey. The speaker then referred to Klingensmith's testimony where Lee was encountered just outside of Cedar City as he and another witness, Joel White, were going on an errand of mercy. Lee did not favor the safe passage of the emigrants through the Territory. "I have something to say about that," he exclaimed. The truth is, he has had altogether too much to say about the protection of these emigrants for his own safety, or for the good name of this Territory. Later proof shows the prisoner to have been one of the most active participants. His counsel say he was so tender-hearted that he shed tears. Though he dissolved himself like Niobe, he could never shed tears enough to wash out the wicked conception of that foul deed. The speaker then drew a vivid picture of

the emigrants abandoning their defenses and committing themselves to his protection under the sacred guaranty of a flag of truce.

DREAD AND MYSTERIOUS ORDERS HAD BEEN GIVEN,

and honest rustics have been called from their villages with arms in their hands, to shoot these emigrants in cold blood. The Indians were not seen for hours before the perpetration of the butchery. But when the men fell, betrayed and unresisting, the savages re-appeared and finished the work begun by their inhuman allies. The prosecuting officer referred to the condition of the bodies as testified to by Keyes two weeks after the massacre, and also as described by Bennett two months after the crime. Having been lightly buried in washouts and other hollow places, they were afterwards disinterred and probably thrown together by the action of the rains.

The speaker next referred to the flimsy argument advanced that the Indians were so savage it was impossible to save the emigrants. If you knew of a number of women and children threatened by savages, what would you do to save them? There were armed men on both sides. For several days the emigrants held the Indians at bay. If both these forces had united, all the Indians in Utah could not have dislodged them. Would you join in the slaughter of your fellow-countrymen, and basely desert them in their extremity? The plot was not planned by the Indians; they were less interested in its execution than their allies. This idle story about the poisoned ox is an invention to justify and give ground to the slaughter. There was no Dutch doctor in the emigrants' camp as Hoops tells us of. Mr. Farnsworth says he never heard of him; the speaker did not think that Hoops had been seen since the day he had made so ridiculous a spectacle on the stand. If the speaker were he, he would hide himself from the gaze of man forever.

Mr. Carey said he would not do the prisoner injustice, nor did he see how the jury could do him an injustice unless they should acquit him. He could fully realize the painful position this man occupies; but when inclined to feel sympathy for his distress, the sympathetic mind reverts to Mountain Meadows, and sees there old men, trusting wives, loving mothers, and helpless babes ruthlessly murdered, and this man their chief executioner. It would be mercy to fitly punish him; if the speaker were in the prisoner's place he would supplicate punishment. His hands are stained with the most terrible crime ever committed. If a man ever deserved punishment in the interest of society, this is the man. All the appalling details of the butchery are not known, but enough are known to show that he is unfit to live. Everyone, who had a head in planning, or a hand in executing this foul deed, will be brought to justice. The speaker then dwelt with some length upon historical precedents, and declared, that in all the elements that make up a great crime, this butchery at Mountain Meadows is the worst combination of cruelty and atrocity. Is any political party or theocratic organization willing to incur the disgrace of justifying this massacre? Is any man ready to say, "Let this prisoner go free?" It is not believed that such an one exists. In the name of violated law, of outraged justice, in the name of all that society holds sacred, he asked that a proper punishment be awarded this man. The speaker concluded his address by asking the jury to fairly consider the testimony, and find a verdict such as their oaths required of them and as their consciences should dictate.

JUDGE SUTHERLAND

Followed in an elaborate argument for the defense. He moralized at some length upon the subject of death. After appealing with great force of language and with becoming sentiment to the sympathies of the jury, he proceeded to review the testimony. The crime now under investigation, he pronounced one of unprecedented wickedness. It will gratify the sense of retributive justice

which every man, not an enemy of his kind, feels, to discover the perpetrators and hang them. They should not be permitted to live! That crime which so shocks us, was committed with such circumstances of atrocity, that no punishment seems adequate. But in proportion to the turpitude of the crime charged and the severity of the punishment should be our diligence and circumspection in looking for and condemning the fiends that planned and enacted that scene of horror, who have since cursed the earth with their baneful presence for the period of eighteen years.

Have you been furnished with adequate evidence to satisfy you that you have been made acquainted with the bloody transaction? Do you think it has been so circumstantially described and detailed to you that no other person exists, who could be brought before you, and could tell you more of it? Has it been so described that you feel assured, if others do exist who can testify on the subject, that what they would say would add no new fact to what you have already learned? Unless you have been permitted to know by evidence all that can be learned from witnesses, you can not feel that assurance of the correctness of your judgment that amounts to a "moral certainty" of the defendant's guilt—you can not have that assurance which is not beset with that misgiving which, according to law, acquits, called a "reasonable doubt."

The testimony submitted to you discloses that there were at least twenty-four eye-witnesses of the tragedy: P. Klingensmith, John M. Higbee, Carl Shirts, Charles Hopkins, Wm. C. Stewart, John D. Lee, Joel White, Robert Wiley, Ira Allen, Samuel McMurdy, Thomas Cartwright, Wm. Bateman. — Clark, Ezra Curtis, Samuel Pollock, William Young, Harrison Pearce, James Pearce, Samuel Knight, Richard Harrison, John Mangram, — Slade, Sven Jacobs and James Williamson. Six are dead, four of the others are mentioned as defendants in this indictment, leaving fourteen that might testify. Dame and Haight, who are indicted, were not at the scene of the massacre. Jukes, Adair and Wilden, who are also indicted, have not been mentioned in the transaction. Of these fourteen, who are eligible to testify, only P. Klingensmith, Joel White, Samuel Pollock, William Young, and James Pearce have been put on the witness stand. Ten others could have been called. They are all within the jurisdiction of this court.

NOW A REMARK AS TO THE EXAMINATION

of those who were called to the stand. Smith and White were put under oath by the prosecution, and directed to state all they heard said and saw before going to the Meadows, all they heard, said and saw at that place, on the day of the slaughter, and on all of the preceding days they were there. The prosecution also called Pollock, Young and Pearce. The directions to them were, "Tell all you saw during the same period; but don't repeat a word you may have heard anybody say." Those witnesses testified accordingly. The prosecution did not permit these latter witnesses, on cross-examination, nor when called as witnesses for the defense, to transcend those inexorable limits.

Smith and White have testified, on questions put by the prosecution, to conversations, rumors, and acts at the Meadows. Nor were they confined to stating conversations between those who are indicted, or between those persons that acted in concert, or that seemed to be bound together by some combination with each other, or with Lee. All conversations, no matter between whom, or where occurring; all rumors, no matter how vague or impersonal; all acts, no matter by whom done, or how irrelevant, were testified to by them. The defense interposed objections, but they were unavailing to exclude anything.

The transaction really consisted of what all the actors at the Meadows said and did while together, by way of preparation before going; of all they said and did on their way thither; and all they said and did after they arrived. After some evidence of combination for going there, the acts and declarations of individuals belonging to the party, in the absence of the others, within the same scope of time and place, relating to the common purpose and in the execution of it, would also be included in the technical res gesta—would form part of this transaction which is the subject of this inquiry. Smith and White ranged over this

field without the least check. No combination, however, was shown beyond this—that the persons whose names have been mentioned

WERE CALLED TO GO TO THE MEADOWS

to save the emigrants that had survived the protracted attacks of the Indians and to bury the dead. On this ostensibly humane errand men went simultaneously from Cedar City, Harmony and Washington. They carried implements suitable for interring the dead. They also carried firearms—these were always in demand; the farmer seldom went even to his fields without his trusty gun. Smith and White are the only witnesses who have given full testimony. The prosecution, it is true, called Pollock, Young and Pearce, but they were only permitted to describe the transaction as a pantomime; they were not permitted to state what was said in connection with any act which they mentioned. They were at the Meadows; they saw all that anybody saw, and heard much said that would explain those acts; but they were compelled to testify as though they had been deaf, and saw the transaction with the sense of hearing abolished.

GENTLEMEN OF THE JURY—The charge against the defendants named in this indictment is that they, by agreement, and concert of action, killed and murdered the emigrants. As before remarked, they did not all go from one place; they did not occupy one camp at the Meadows; they were not continuously together; they were there two or three days before the massacre. During that interval the emigrants were intrenched, and the Indians fired upon them. On the fatal day, no Indians were to be seen; they had, in fact, concealed themselves in the sage-brush. They were in ambush, from which they sallied out to the final assault. On that day the emigrants came into communication with the Mormons, under a flag of truce, surrendered their arms, abandoned their property, and placed themselves under Mormon protection, to be conducted back to Cedar City. The children and wounded had been placed in wagons provided by the Mormons; these wagons had started towards Cedar, under the lead of John D. Lee; next marched out the women, lastly the men. This procession marched for nearly three quarters of a mile, the Mormons traveling abreast, or nearly so, of the men belonging to the emigrant party, when the massacre commenced. Lee had gone with the wagons over a rise of ground; and was out of sight of the men. That was his final departure from the field.

HE CONDUCTED THE CHILDREN IN SAFETY AWAY.

Two important and vital questions must be determined—first, did the Mormons take part in the massacre? If so, was it previously agreed on when Lee was present?

If there was no agreement, or concert of action, each man, of course, was only responsible for his own acts. Was there anything said, done, or agreed upon, which should affect Lee, when he headed the retreating emigrants, that such a butchery was to be executed when they came opposite to that masked battery of Indians?

That attack was either made by the Indians alone, or by Indians and individual Mormons more savage than Indians; or it was initiated by Mormons, organized and using the Indians as allies. It was a sudden attack, unlooked for alike by Mormons and emigrants, and originated in the natural ferocity and treachery of the Indians; or it was preconcerted by Mormons as individuals or as a party, acting upon a like impulse of treachery and ferocity. You must decide in your own minds how it transpired. You can not convict Lee unless you find from the evidence that there was such preconcerted plan, and that he was a party to the damnable compact.

As Lee did not participate in the slaughter, and was not present or in view of it, the hypothesis that he and the others pre-arranged the destruction, can not be adopted, unless there is evidence of it. There must be such a state of facts proved, beyond a reasonable doubt, as are not only consistent with, but such facts as prove, that supposition. The facts proved must be inconsistent with any other supposition that can reasonably be propounded. In other words, the co n

spiracy must be proved; and it can only be established, indirectly, by proof of such facts as exclude all probability that he had no notice that such an attack was contemplated by those who made it, whoever they were.

GENTLEMEN OF THE JURY—Are you prepared to decide that question? You are informed that fourteen men were there, who are now within reach, and could give you information. Do you feel safe in deciding before you have heard what they have to say?

The learned counsel then devoted considerable time to impeaching the testimony of Philip Klingensmith and Joel White.

HE PRONOUNCED THEM MURDERERS

on their own statements, since they admitted on oath that they had taken part in the butchery. A supposition that Lee made, the speaker continued, or contributed to the making of a *BONA FIDE* arrangement to save the lives of the emigrants, as he saved the lives of the children, by that capitulation, is a supposition in favor of innocence, which is always the presumption of law. It is, therefore, a reasonable supposition in this case, because the proof does not overturn it, and it is supported by collateral facts of great evidentiary force. If that supposition is accepted, Lee must be acquitted.

For I repeat it is an hypothesis which harmonizes with all the facts which the jury can find; it harmonizes with every legal deduction from those facts. It is an hypothesis that the facts proved do not exclude or rebut, and it is, moreover, the direct fact which Lee offered to prove, and, in consequence of the objection of the prosecution, was prevented from proving.

The collateral facts by which this hypothesis is supported are those on which Smith and White have been contradicted.

A DESTRUCTION OF THE EMIGRANTS,

pursuant to a previous plan, necessarily presupposes some discussion between those who do the bloody deed. Some means must be provided, some mode of action agreed on. Smith has been relied on to supply this evidence. He says Lee called him aside for consultation at Hamblin's ranche; told him what was to be done; that therefore, and pursuant to the plan then announced, Lee took command of the Mormon forces to execute the plan. To that interview he is careful to say there was no other witness. Smith proceeds to say that immediately after this announcement of the object to be accomplished, and the plan of operations, Lee formed the Mormons into a hollow square at the camp; that he there, in the character of commander, addressed them, stating what they were to do to accomplish the slaughter; that they were to march to a designated point, march with the emigrants for a space, and, on the command to halt; they were to pause and fire; that, on this command being given, the course pointed out was followed. If this occurred, and the Mormons, so commanded, moved to the point designated, it is strong evidence to criminate Lee. But, fortunately for the defense, he is not supported by the other witnesses. Even White says there was no hollow square formed at the camp or elsewhere, no address by Lee to the Mormons, no commands laid upon them by anybody. Pollock and Young both say there was no forming of the Mormons into rank and file to march to the road where the emigrants were to pass, that those who went, went voluntarily, and those who chose not to go remained at the camp; that those who went walked promiscuously, not in file. The presence of such Mormons as were near the emigrants when they were attacked, was accidental. The fact that they had not been called on to go there, either in file, or under officers, is convincing proof that they had no preconceived part to perform there. You must unhesitatingly believe that if any part of the Mormons there had been a fixed plan, and they had determined to destroy the emigrants, first rendering them defenceless by

THE PERFIDIOUS USE OF A FLAG OF TRUCE,

or otherwise, they would all have been made parties to the hellish plot; one part would not have proceeded in the view, and, under the observation of the rest.

who, remaining innocent, could be their subsequent accusers. It is idle to talk of men, in such an undertaking, destroying children of sufficient age to remember, and yet being unmindful of the presence of adult witnesses. It is absurd to talk of an organized force to destroy the emigrants, while it appears that they were not called together, that there was no agreement to go, nor any command to go; that all did not go to the place of slaughter; while it appears that those who went went as if prompted by interest to witness the delivery of the men, women and children they had come to save, and that others remained by a like volition in camp content with the assurance that their mission would be a success.

This contradiction by Young, Pollock and Pearce, of Smith's statement that the Mormons were put in rank and file and marched to the place of slaughter, their contradiction of his statement that the Mormons there were such minions and serfs, that their concurrence in such a devilish plot could be taken for granted, or their participation in its execution be commanded, without consultation to ascertain that they were willing to incur the guilt of murder on such a gigantic scale, commends itself to every man's common sense. Even without such contradiction, Smith's testimony would be set aside and pronounced preposterous by every person of ordinary intelligence.

After a further elaborate argument having for object to satisfy the jury that the Indians, true to their barbarous instincts, had committed the treacherous butchery, the ingenuous counsel concluded as follows:

GENTLEMEN OF THE JURY:—It appears from the testimony of all the witnesses who have been sworn and were present at the Meadows, except Klingsmith, that they went there to save and not to hurt the emigrants. Bradshaw was requested to go also. He came to the rendezvous with a spade and without a gun. He had been summoned to go, like the others, on the rumor that the emigrants had been attacked and nearly all killed, for the purpose of burying the dead and saving the survivors. On his appearance to join those that were going, he was asked where his gun was. He said "he did not know as a gun was necessary to bury the dead." He seemed to have so little comprehension of the situation, he was sent home. He says he was called a fool for not thinking a gun necessary in going on such an errand. His discharge had such an effect on the old gentleman that he has backslidden and fallen away from the Mormon faith, and now testifies, with the bitterness of an apostate, but the foregoing is the extent of his testimony.

Klingsmith was opposed to shedding the blood of the emigrants. He was so penetrating that he knew the plan was murderous before he left Cedar City. And yet he would give you to understand he dare not actively oppose it, because of a vague fear that he would lose his own life. In no civilized community in the world would a bishop or a private citizen endanger his life by opposing such a crime. Any man must have been bold indeed who could propose the massacre of one hundred and twenty men, women and children, and do it in a public manner. To make such a proclamation a credible occurrence we must assume that it was done in

A COMMUNITY OF ROBBERS AND MURDERERS.

To say that a religious community was such is to insult the intelligence of everybody that hears. To say that any man could summon for a humane purpose a promiscuous part of a community, and then thrust them, without consulting their wishes or their scruples, into a crime that would shock the whole civilized world, is a degree of trifling that no jury ought to listen to with patience. Communities in which such a thing could be done do not exist. If some Hotspur had made the attempt at either of the towns which contributed men to go to the Meadows, the humblest citizen could have driven him at once to retreat or to emigrate. A denunciation would have sufficed—the popular heart is always tender and humane. No man in the Mormon Church would have supported such a proposal. If, by any fiendish caprice of individual depravity, such a proposition had been made in a particular locality, a bishop's bold stand against it would

have squelched the project and the projector. Such a proposition in sight of the emigrants would have been indignantly rejected, and promptly denounced by every man who went there, except Philip Klingensmith.

Why should the Mormons desire the death of these emigrants? Though they did not behave themselves, though they did much to exasperate the peaceable people of this Territory with whom they came in contact, there was no deadly feud. When they had passed Pinto, they had passed beyond the Mormon settlements, and every one was ready to exclaim, Good riddance!

But if it can be supposed that the Mormons desired their destruction, there was no need to pursue them. The Indians had surrounded them, and could overwhelm them. Mormons desiring their destruction needed only to let them alone. They were closely besieged, their stock could be driven off, their supplies of water could be cut off. A few days would suffice to make them perish with thirst. It is not a reasonable theory that the people of three towns would go to the Meadows to take part in the slaughter of a party whose death was already assured. No man in his senses will believe it.

Now, in conclusion, I say that on the theory which I have advanced, all the facts which the jury can find satisfactory evidence, harmonize with the presumption of the defendant's innocence. The emigrants had rashly courted such a fate from the Indians

BY POISONING THEIR FOOD AND DRINK.

There was a deadly provocation. The Indians acted upon it. They pursued the emigrants. They summoned their friends and allies to join them in their pursuit of vengeance. They were implacable in their wrath, and threatened even the Mormons for their efforts to pacify them in behalf of their enemies. The Mormons had no motive to slay them. The Mormons with one humane impulse, rushed to their aid from Cedar City, from Harmony, and from Washington. They went to the Meadows on hearing that the emigrants were attacked. A capitulation was agreed on; it was negotiated by Lee and other leaders among the Mormons in good faith, and its eventual violation was not foreseen. The Indians retired before the emigrants were made a party to it. They had apparently listened favorably to Mormon intercession. They returned when the emigrants were defenceless and exposed, and fell upon them with the fury of demons and spared neither age nor sex. This is the way Indians generally fulfil their agreements. Lee saved the children and was not even a witness of the slaughter that followed his exodus from the field. Seventeen children were saved by his courage, address and diplomacy.

The property saved from the rapacity of the Indians might properly be husbanded for the support and nurture of these orphans. There could be no more appropriate trustee of the proceeds for this purpose than the church. The tithe fund is her charity fund. Slender as the provision, derived from this property, would be for the maintenance of so many children, the church assumed a guardianship of them, and she was properly entrusted with the means designed for seconding her benign and motherly intentions. The former owners having been massacred, it was fitting that the property should go to their use and that their kind guardians should administer it.

JUDGE E. D. HOGG

Next made an argument which he confined within the limits of an hour, the speaker devoting his attention mainly to exposing discrepancies in the testimony. He reviewed Klingensmith's statement with great acerbity, and briefly touched upon the evidence of the other witnesses. Klingensmith testified that the emigrants were shot down in single file, some others deposed they were put away in double file, this the triumphant orator pronounced "Lie number four." Carrying the letter to Richard Robinson at Pinto Creek, the messengers, Klingensmith and Joel White, saw and spoke to Lee, whom they met in a field. One reported Lee as saying, when told of the object of the errand, "I have something to say

about that!" The other attributed to him a remark similar in purport, but varying slightly in phraseology. This the speaker with immense energy designated as "Lie number five!" This course of argument was maintained until the speaker had nailed about a dozen such constructive lies, and then resumed his seat.

MR. W. W. BISHOP

Was the next speaker, who made an argument of five hours' duration, in which he followed his brother counsel in furiously assailing the character and testimony of the witness Klingensmith, and pointing out to the jury the discrepancies in the statements of the witnesses for the prosecution. He ridiculed and distorted the testimony of Keyes, and set forth his statement of the undecayed female corpse in melo-dramatic light. He was at a loss to conceive why the Almighty should have made such a man as Klingensmith. He compared him to Cain, a fugitive upon the earth, bearing with him the brand of murder upon his brow. He also found a resemblance between the penitent ex-Bishop and the dove that left Noah's ark; upon all this wide earth there is no rest for the sole of his foot. The speaker warmed to his subject, and painted the atrocity of the witness in vivid colors. All the speakers who had preceded him, he said, had expressed their astonishment at the blind obedience of the actors in the tragedy. He saw nothing wonderful in it when the rigid discipline of the Church is borne in mind. The remark dropped by the Prosecuting Attorney, that the eyes of the world were upon the jury, he condemned as being in bad taste and highly improper. The jury were there to find a verdict according to the testimony, and upon their decision the life of the prisoner was in issue. All outside clamor and discussion of the case in the newspapers should be carefully excluded, and the visual optics of the human family, no matter how intently directed to this court of justice, should not be permitted to weigh with the deliberations of the jury in the estimation of one poor scruple. A great portion of this gentleman's argument was in bad taste, being addressed to the prejudices of the jury and to raise a laugh from the groundlings. The audience was composed largely of Mormons who were so boisterous in their approval of the speech that the Marshal had great difficulty in preserving order in the court room.

MR. R. N. BASKIN

Next made the closing argument for the prosecution. He commented upon the charge of the opposite counsel that the case was being tried by popular clamor, and that the prosecution addressed itself to the prejudices of the audience or jury. By the severe arraignment of the people of the United States and the people's attorneys, a stranger would be in doubt who was really on trial. It has been admitted that murder was committed, heinous in nature, revolting in its details. The fact is well known, that at the time of the massacre not over one hundred Gentiles were living in the Territory. The speaker dwelt briefly upon the organization of the Nauvoo Legion, a military body obnoxious to public sentiment, brutal instruments of an ecclesiastical despotism, and part and parcel of the Mormon Church. Its highest officers were leaders of that Church. Counsel had severely criticized the length of time this crime had been allowed to slumber. Mr. Baskin quoted from the Utah statute book to show that the execution of the laws was in the hands of the Mormon authorities, that the Territorial Marshal, appointed by the Legislature, summoned the grand and petit jurors; that the Territorial Attorney General, appointed by the same authority, prosecuted offenders, and that the Probate Courts exercised concurrent jurisdiction with the United States District Courts. Last year an act of Congress changed the judicial system of Utah, vesting the power to prosecute criminals in the United States District Attorney. The blame for delay in instituting judicial investigation into this revolting crime

RESTS SOLELY WITH THE MORMON AUTHORITIES.

who, having the power entirely in their own hands, have thrown every impediment in the way of executing the law. To make this disgraceful fact more apparent, the speaker pointed to one of the prisoner's counsel who has long held the office of Prosecuting Attorney for this Judicial District, and whose duty, during his tenure of office, it was to bring his client to justice. Congress having now legislated for our benefit, unpunished crimes are being searched into, and the offenders, who have long enjoyed immunity, brought to the bar of justice.

It has been said in this Court room that the eyes of the civilized world are upon this jury. And why? Because this being a crime against civilization and against humanity, they desire to see it expiated with the blood of the perpetrators. The country does not want to see that old man hanged; it only wants to see the fair fame of the country vindicated. The counsel for the prisoner say we ask you to convict Lee because he is a Mormon and because he is an old man. Such an assertion is an insult to your intelligence. The speaker then examined the testimony. The first witness described the scene fourteen days after the massacre, and the second witness two months thereafter. This proved the corpus delicti. Klingensmith has been made the object of vituperation and invective. Who is Klingensmith? A former bishop of the Mormon Church, and because of his high position, he was made a conspicuous actor in the crime; and because he acknowledged participation in the massacre, for that cause a persistent effort has been made to break down his testimony. If his testimony were all stricken out, the charge is still convincingly proved. But the jury are satisfied he was a truthful witness, and was not eager to tell his story. He answered questions slowly and deliberately, and where his memory failed him, he was careful to avow his uncertainty. How completely is his testimony borne out by the other witness, who tells of going to Pinto as the bearer of the letter ordering that the emigrants be allowed to pass without molestation from the Indians. The prisoner's counsel have asked to what possible use such a man as Klingensmith can be put. The speaker could tell them. He is fit to obey "counsel"—a cardinal duty enjoined upon every good Saint. He is fit to be a polygamous bishop and help build up the Kingdom. He is fit to carry out the orders of his ecclesiastical superiors, and murder and spoliage at the command of God's chosen servant, Brigham. So long as he confined himself to these functions he was fit for preferment in the hierarchic ranks, and no breath was breathed against his character. But now he has come out from the charnel-house, has shaken his soul clear of the delusion that held it in bondage, and shows a willingness to atone for his past offenses, by ridding his conscience of this appalling crime, he instantly loses all his past sanctity and becomes

A monster of such hideous mien,
That to be hated needs but to be seen.

The next witness, Joel White, is bearer of that letter. White says he carried the letter to Richard Robinson, sub-Indian Agent. The defense placed this man upon the stand. He admits he held that office, but does not remember receiving the letter, nor does he deny receiving it. Eighteen years since the occurrence, many things are unavoidably forgotten. There is no contradiction; nothing to throw discredit upon the other two witnesses. Klingensmith tells of meeting Ira Allen on his return from Pinto, who dramatically exclaims—"The die is cast, the doom of the emigrants is sealed!" White does not remember this important incident, but such a discrepancy is proof that there is no collusion between the witnesses. If they had compared notes and been instructed by Bill Hickman, as charged, would they not have told their respective stories with parrot-like fluency and been careful to have them agree? There was also a discrepancy about the hollow square, which Klingensmith says was formed by Higbee upon the field, where instructions were given to the Mormons about the approaching butchery of the emigrants. Witness was not a soldier, and may have mistaken the military term, but the testimony shows there was a meeting held at Hamblin's rancho where the

PLAN OF DESTROYING THE EMIGRANTS WAS DISCUSSED,

and a flag of truce, as a decoy, was resolved upon. Some witnesses testify that William Bateman first carried the flag, others fail to mention him. All agree that Lee went down and induced the captain of the train to come out by the display of this sacred emblem; conversed with him an hour and a half, then entered the corral and allayed the suspicions of the inmates. The testimony shows they surrendered their arms, committed to his care their youngest children and then followed in the death procession. Defendant's counsel ask the jury to believe this was all done in good faith, with the intention of rescuing the emigrants from the handful of Indians who were menacing them. Is not such a request an insult to common intelligence? If deliverance was meant, why compel them to surrender their arms? Why take from the mothers' breasts the nursing babes? Why lead them into an ambuscade of Indians? The whole execution of the plot shows murderous design, and to believe to the contrary is to do violence to reason. When the victims were slain, the whites dispersed and went unmolested to their homes. If the Indians had compelled the massacre, their passions being whetted with blood, they would have further gratified their rage with an assault upon the returning troops. But the testimony shows the Indians in Cedar City tricked out in the property of the slain, washing the bloody garments in the ditches, and no excitement! No one fearing an attack!

The speaker then dwelt upon the visit of the prisoner and Higbee and Klingensmith to Brigham Young, when a full report of the massacre was made. Brigham was Governor of the Territory and ex-officio Indian Superintendent. What was his duty in the premises? Had he been an honest official, had he been a Christian gentleman, he would have diligently collected all the property and sold it for the benefit of the surviving children. But he tells Klingensmith to turn over the property in the tithing house to John D. Lee; has the cattle branded with the church brand and used for church purposes. Klingensmith is sent to distant lead mines to procure lead to use against the United States army, then marching towards Utah. The speaker made a severe arraignment of the Mormon Church, which teaches secretiveness and compels its members to connive at crime.

When Brigham Young was informed of the massacre, he instructed the perpetrators not to tell any one of it; not to talk of it among themselves. In no other community on God's earth could this heinous crime be allowed to slumber eighteen years, and the people participate in the guilt by keeping it concealed. Yet when the District Attorney is instituting a search into the secret and bloody deed, the prisoner's attorneys call it persecution. No state of society can be a correct one, where

MURDER IS TAUGHT AS A RELIGIOUS DUTY.

The Constitution guarantees religious liberty, but not liberty to commit crime. Counsel appealed to the jury to cast aside prejudice and find a verdict according to testimony. But he did not expect a verdict. There were some Mormons on the jury, and he knew by former experience with juries, that every man who has been through that sink of impurity, the Endowment House, and wears the Endowment garments, has left his individuality and his manhood behind him. He did not expect such men to perform the honest duty of freemen and find a verdict according to their best judgment.

THE JURY DISAGREE.

The case was then given to the jury, who remained out three days and then announced themselves unable to agree upon a verdict—nine standing for acquittal and three for conviction. A canvass of the votes showed that the eight Mormons on the jury were all for acquittal, and their ranks were joined by J. C. Heister, a Gentile, foreman of the jury. The other three Gentiles stood out for conviction. The jury was thereupon discharged, and the prisoner was held for a second trial.

Of Utah, must produce a powerful impression throughout the civilized world. What the present or remote results of the trial will be, it is too soon to say. The defense has just opened and indicated the points upon which they expect to rely. It is not even expected by the prosecution to win a verdict of guilty, although Lee, the one now on trial, has once made a full confession of his own participation in the bloody drama. Several Mormons are known to be on the jury, who certainly knew nothing of the transaction, although living for many years in the district and without a probability of doubt, familiar with every detail of the whole affair. The prosecution refused to accept of a verdict of guilty, and the jury, in the last fall, was composed of the most prominent men in the territory, and the main facts have already been proved by such a mass of testimony that one can hardly harbor a doubt that a crime, instigated by the leaders of the Mormon Church and committed by the followers, took place in the last fall in the immediate vicinity of the Mountain Meadows. However much may be hoped to the immediate future for the sake of the nation which they lived, the Mormon hierarchy will have to bear the heavy burden of the indictment and the utmost weight. Brigham Young, who was the High Priest and Governor of the territory, is the only one of the leaders who has not been indicted.

OPINIONS OF THE PRESS

UPON THE LEE TRIAL.

(Below we give the opinions of a portion of the newspaper press upon the Lee trial, and the failure of the jury to find a verdict. With the exception of the two or three journals published in the interest of the Mormon Church, which have attempted faintly to palliate the crime, and justify the jury by making light of the evidence, every paper in the United States, which has expressed an opinion upon the subject, has joined in the universal chorus of condemnation of a religious system which deprives its followers of their manhood, and is capable of influencing one portion to commit crimes and another portion to violate their oaths in order to cover up the sins of their co-religionists.)

OPINIONS OF THE TRIAL.

By this time the case of John D. Lee has been given to the jury, and if any verdict is to be rendered it will probably be brought in to-day. One of the Indian chiefs who participated in the massacre has made his statement, declaring that the Indians were bribed by a promise of the spoils of the emigrants, to do their bloody work; that Lee commanded them, and that the story that the animosity of the Indians had been provoked by an attempt to poison their springs was groundless. All the evidence, it will thus be seen, strikingly corroborates our history of the butchery. It is to be hoped that a clear case having been made out, justice may be done in the premises and those really guilty of this gigantic crime adequately punished, even if they are of greater social and political importance than the tool, Lee. Unhappily this is to be hoped rather than to be expected.—N. Y. World.

The horrible details of the Mountain Meadows Massacre reveal the cruel tyranny of the Mormon Priests in the days of their power, and emphasize the necessity of punishing the authors of these terrible crimes. But the fact that eight Mormons, among them relatives of the accused, are on the jury, gives little hope for anything but a mockery of justice in this trial. If, when a man is tried by his peers, his accomplices or abettors in crime were to be thus considered, there would be an end to all government but that of cut-throats. We hope that some means will be found to bring the persons responsible for this crime to justice, which should smite not the followers but the leaders in this infamous business.—St. Jo. (Mo.) Herald.

The sickening and blood-curdling details of this horrible massacre of an entire emigrant train, men, women and children, except a few supposed to be too young even to bear witness against the perpetrators, occurring as long ago as 1857, but just coming to light in authentic shape in the trial now taking place at Beaver

City, Utah, must produce a powerful impression throughout the civilized world. What the present or remote results of the trial will be, it is too soon to sum up with any certainty. The defense has just opened and indicated the points upon which they expect to rely. It is not even expected by the prosecution to gain a verdict of guilty, although Lee, the one now on trial, has once made a full confession of his own participation in the bloody drama. Several Mormons are known to be on the jury, who swore they knew nothing of the transaction, although living for many years in the district, and without a probability of doubt, familiar with every detail of the whole affair. The prosecution refused to accept Lee's confession and enter a *NOLLE*, believing he was endeavoring to shield those most guilty, and the real instigators of the butchery.

The main facts have already been proved by such a mass of testimony that no one can henceforth harbor a doubt that a crime, instigated by the leaders of the Mormon Church and mercilessly executed by its own people in the last half of the nineteenth century, which can only find a parallel among the annals of the dark ages and of the most blood-thirsty savages. However much may be pardoned to the immediate actors for the reign of terror under which they lived, the Mormon hierarchy will have to bear the guilty burden to the fullest extent and in its utmost weight. Brigham Young, who was the High Priest and Governor, is still at the head of the church, and notwithstanding Lee says he wept when told of the affair, no one who knows the extent of his power over his dupes, and the spirit in which he wielded this power so long as he thought himself at a safe distance from the eyes of the world, can doubt for a moment that this massacre lies at his door, either as the result of his direct order, or at least the natural and necessary result of his teaching.—*Helena (Mon.) Herald.*

It is doubtful if humanity in any condition of the world was ever so shocked by the sickening revelations of crime and outrageous murder as the trial of the Mormon assassins at Beaver, discloses. The butchery of the unoffending emigrants at Mountain Meadows by the priestly demons of the Mormon Church is unparalleled in the long annals of human perfidy and crime. We have been accustomed to read with bated breath and cowering heart, the wild and cruel raids of Claverhouse in the dark days of English intolerance; of the red butchery of St. Bartholemew; of the cruel persecution of the Huguenots, when men and women were done to death by religious frenzy. But these dark episodes in history, were palliated by the impulses of fanatic conscience and zeal for church and shrine. They were not undertaken from lust of blood and gold. Cruel and remorseless as they were, these bloody deeds whiten into virtues when compared with the Mormon massacre. At Mountain Meadows greed alone drove the knife and impelled the bullet. Men and women were done to death for goods and toys. The gold dust in the emigrant wagons was reached through the blood of innocent babes. The fair white throats of little children were given to the knife, and cowering, shrieking women were shot and stabbed to death amid the wails of little ones that clung in terror to their breasts. In the same stream mingled the blood of youth and age; of parents and their offspring, and in the pile of naked bodies on the plains, the strong frames of bearded men and helpless infancy were thrown together in a sickening funeral heap. When the work of death was done, some rescued innocents—little boys and girls—were taken to the Mormon Temple to make a spectacle for the murderers and to be given away as largesse to the criminals. Even in the midst of the bloody crew one little blue eyed boy pointed out his father's murderer. "That man killed my papa!" was sobbed with choking utterance as his young sight grew dim through blinding tears. "My papa!" was only a mournful memory to the desolate young heart shrouded in blood and tears. Faint and sick with orphanage and with the awful vision of that horror still before his eyes, the little emigrant boy pointed out the red assassin.

"I never saw that boy again," says the witness. Perhaps he too joined the caravan of souls that winged their flight from the red sod of Mountain Meadows; another crime added to the innumerable horrors of that scene of death.—*Helena (Mon.) Independent.*

As a literary curiosity, Brigham Young's affidavit deserves respectable consideration. It is indeed calculated to put the Prophet in quite a new light before the world. Evidently there has been a terrible mistake somewhere. Brigham Young has never been the autocrat supposed. He has never had authority over the Mormons. He did not know anything of the Mountain Meadows Massacre until "by a floating rumor, two or three months after it." But when at length, in a casual way, it came to his knowledge that the people of his Church had butchered a hundred and twenty defenceless men, women and children, he was so overcome that he could not bear to hear the details. He says: "I told Lee to stop. I did not wish my feelings harrowed up by the recital." And then, according to his statement, he abruptly dropped the matter. Seeing, however, that his neglect to take any action might appear strange to the world, he offers as an explanation of this, that "I did not examine into the matter because another Governor was appointed and en route to the Territory; and because no United States Judges were here." Really this is too bad. It is adding insult to injury for a man in Young's position to affront the intelligence of the nation with so bald, so puerile a tissue of flummery as this. So clumsily is it constructed, moreover, that it affords conclusive proof that he possessed the necessary authority in the premises.—*Sacramento Record*.

Brigham Young's affidavit in the Mountain Meadows Massacre case at Beaver Utah, is a very thin document. He pretends that although his residence was almost within hearing of the shrieks of the victims, he never really got an account of the affair. Vague rumors, he admits, had reached his ear of a deed over which every family in the United States was shuddering, but neither enough nor sufficient definite information to suggest to him the desirability of investigating the matter. Nay, it is even added in the affidavit that when Lee, a long time after the affair, proposed to tell him something about it, he refused to have his "feelings harrowed up with a recital of the details." The transparent hypocrisy of the entire affidavit is the strongest evidence of Brigham's complicity in the whole business. The case has now gone to the jury, eight of which are Mormons. It is next to impossible that a righteous verdict should be obtained from such a jury, but the trial has served the purpose of getting the evidence before the country and more closely than ever before fixing the responsibility of the horrible massacre upon the Mormons. If John D. Lee is lynched some fine morning, it will be nothing more than he need expect.—*St. Albans (Vt.) Advertiser*.

Fanaticism develops itself in its ugliest forms under the teaching of false religions. This is especially so where ignorance obscures the intellect, and the devotee is content to shape his creed according to the dictation of an assumed prophet. The Mahomedan, the Hindoo and the Mormon are alike instances in point. In the church of the last named there are certain obligations to be conformed to in blind obedience. If this had been doubted—which it never was—before the trial of John D. Lee, evidence was there presented under oath to confirm it. Brigham Young had openly taught from the pulpit, a short time prior to the Mountain Meadows Massacre, that for offences against Mormonism there must be a "blood atonement." The following extract from one of his sermons, delivered April 10th, 1855, and published in the *Deseret News*, an organ of the church, will show that he taught, as plainly as he dare, that to kill an offending "Gentile" was not only a merit, but a duty, and that the massacre was a natural result of his persuasion. Hear him: "I wish we were in a situation favorable to our doing that which is justifiable before God without any contaminating influence of Gentile amalgamation, laws and traditions; that the people of God might lay the axe at the root of the tree, and every tree that bringeth not forth good fruit was hewn down. What! do you believe that people would do right and keep the law of God, by actually putting to death transgressors? Putting to death transgressors would exhibit the law of God, no matter by whom it is done

—that is my opinion. Have not the people of God a right to carry out that part of the law as well as any other portion of it? It is their right to baptize a sinner to save him; it is also their right to kill a sinner to save him, when he commits those crimes that can only be atoned for by shedding his blood. We would not kill a man, of course, unless we killed him to save him. Do you think it would be any sin to kill me if I were to break my covenants? Let every man preach for himself; I am preaching my own faith to-day. Do you believe you would kill me if I broke the covenants of God and you had the spirit of God? Yes; and the more spirit of God I had the more I should strive to save your soul by spilling your blood when you had committed sin that would not be remitted by baptism.

Can there, after the perusal of such a harangue, be room to question that Brigham Young was the instigator of the massacre?—San Francisco Call.

The Mormons are making a desperate effort to clear Brigham Young of the Mountain Meadows Massacre, but they will never succeed in convincing the world that the old sinner was not guilty of participation in the preliminaries to the inhuman outrage, nor that the work of butchery was not perpetrated with his sanction, if not by his positive command.—Leavenworth (Kansas) Commercial.

The trial of the participants in the Mountain Meadows Massacre, took place on the 23d. It was one of the most horrible and cold-blooded butcheries that ever stained the catalogue of crime, and in behalf of humanity we hope the perpetrators may receive the just punishment due them.—Fenton (Mich.) Gazette.

The horrible details of the Mountain Meadows Massacre reveal the cruel tyranny of the Mormons in the days of their power, and emphasize the necessity of punishing the authors of this terrible crime. But the fact that eight Mormons, among them relatives of the accused, are on the jury, gives little hope for anything but a mockery of justice in this trial. If, when a man is tried by his peers, his accomplices or abettors in crime were to be thus considered, there would be an end to all government but that of cut-throats. We hope that some means will be found to bring the persons responsible for this massacre to justice which should smite not the followers but the leaders in this infamous business.—Boston Globe.

The disclosures at the Mountain Meadows Massacre trial are simply blood-curdling, and, if old Lee isn't convicted, it will speak well for social order in Utah, if some violent outbreak does not occur. Public feeling will be wrought up to the highest pitch by the revolting story of the murder of men, women and children in cold blood. American history, with all its tragedy, can scarcely parallel this complete extermination, down to the infants, of one community of the white race by another. It throws into the shade the ferocity of the Spanish bigots and French Huguenots in Florida, when, as Mr. Parkham graphically relates, they used to exterminate each other, not as Frenchmen, but as heretics, or not as Spaniards, but as thieves and murderers.—Springfield Republican.

The evidence in the trial of the Mormon leader, John D. Lee, charged with participating in the Mountain Meadows Massacre in 1857, clearly points to the unmistakable guilt of many distinguished Mormons, including Brigham Young, Hooper, the ex-Congressman, and others. The secret of the massacre was kept for twenty years, but at last one of the leaders who participated in that terrible affair is on trial and his guilt has been clearly proved. At this massacre nearly 150 men and women were shot down in cold blood, while encamped in Utah, on their way from Missouri to California, and all their property confiscated by the perpetrators of the bloody act. About twenty children of the ages of from five to eight years were spared, too young to remember the details of the murder

These children were adopted in Mormon families and have grown up ignorant of their parentage and the fact that brought them into the Mormon Church. It is hoped that the investigation will now continue till all the survivors who participated in the horrible massacre shall be tried and the just punishment that awaits the guilty be meted out to them.—Fort Wayne (Ind.) Journal.

The Mountain Meadows trial is fairly under way at Beaver, Utah, and the testimony for the prosecution has commenced. Philip Klingensmith, a Mormon who was present at the awful scene, was on the witness-stand yesterday, and the story he tells surpasses in minuteness any of the horrible details which have been published heretofore. The testimony of Smith, who is said to be a man of unimpeachable integrity and veracity, locates the crime exclusively upon the Mormon leaders, and, unless disproved by an overwhelming array of rebutting evidence it forever sets at rest the story that the emigrants who were butchered at Mountain Meadows perished at the hands of the Indians alone. Although eighteen years have passed since the massacre occurred, the recital of its awful particulars strikes with fresh force, and with the feeling of sick horror which comes over the reader there is mingled the righteous passion of vengeance, and the wish that the fate of the slaughtered women and children might be visited upon such of the Mormon fiends as are still on the hither side of hell.—Chicago Tribune, July 23.

Klingensmith's testimony in the Lee trial yesterday fixed the odium and guilt jointly on Lee and Dame and implicates Brigham Young. His testimony calls up before the mind in vivid colors the horrors of that summer morning, eighteen years ago, when the unfortunate emigrants were butchered and mutilated, the scalps torn from their heads, and where hoary age, blooming youth or childish innocence, met a common fate. The sod of Mountain Meadows has long since absorbed their blood, but yet it cries to heaven for vengeance. The laws of God and man alike demand the severest exercise of retributive justice on the actors in this most foul murder.—Pioche Record.

The jury impaneled in the trial of Lee, in Utah, is composed of eight Mormons and four Gentiles. There is no doubt that there will be a hung jury, and Lee will for the present escape. But the end is not yet. Lee will stand in precisely the same condition that he did before the trial, and the next term of Court will again be called upon to pass upon his crimes, and Mormonism and Lee will have to stand the additional disadvantages—the facts elicited will lead to other facts damning alike to both. Meanwhile, Congress will meet; the atrocity will be told on the floor of the National council chamber; the connection between Brigham as Indian Agent and Lee as his deputy; the friendly and loving embrace of Brigham and Lee after the massacre; the assassination of Robinson, Brassfield, the Morrisities, together with a thousand other atrocities, will be discussed by the nation, and Mormonism will be considered as a felony, and not a religion. That our Government is strong enough to behead this monster legally, there can be no doubt. Section 3, Article IV., of the Constitution of the United States, declares: "Congress shall have power to make all needful rules and regulations for the Territories, or other property belonging to the United States." Under this provision, Congress possesses absolute authority to govern Utah Territory, and make such laws as it may deem proper.—Virginia (Nev.) Enterprise.

What could not be done by force without danger could be done by stratagem. John D. Lee could pierce that fortification without a shot, and he did. Under a flag of truce Lee entered that hollow square of wagons, and, after two hours' negotiations, the tiger-emissary of Brigham Young, the absolute head of Mormonism, lured those hundred American men, women and children out to their deaths. They were to trust in him and his men, they would protect them from the Indians. Under this truce the emigrants surrendered their guns. Fatal confiding-

ness. First came the wounded and the children, then the women and lastly the men. The signal for the massacre was "Halt!" At last the word came, and as the bullets whistled through the air and crashed into the shrieking victims the Mormon butchers rode up and mercifully cut the throats of the survivors. It was a gruesome scene. Where they fell—these martyrs to a filthy creed—they were piled up in rude heaps for the wolves and crows to feed on, and instead of the Utopia they had looked for they were resting in a Golgotha under the shadows of the Nevadas.

It was told to Brigham Young, the chief devil of the filthy, incestuous creed: the massacre was circumstantially told to him. Did he arrest, indict, convict, punish any one of the butchers? Not one. He only said, "The property of the murdered emigrants which you have placed in the tithing house, turn over to John D. Lee; and of what you know of this say nothing; don't talk of it even among yourselves." Will Brigham Young and Lee and Higbee, and such as are alive be hanged? No! For is not the jury made up half of Mormons, and will they convict their prophet and bishop murderers?—St. Louis Republican.

The report again comes from Salt Lake City, that John D. Lee, who has been under arrest for so long a time, has consented to give evidence for the State in the matter of the Mountain Meadows Massacre. This evidence, it is asserted, will convict high Mormon authorities of complicity in one of the most bloody and shameful transactions of which modern history carries the record. To solve the mystery that has up to this time surrounded the affair, and to fix the responsibility of the slaughter where it properly belongs, will, unless all suspicions are at fault, prove a staggering blow to Mormonism. The occurrence known as the Mountain Meadows Massacre took place in the early days of the theocracy established in Utah, when the remembrance of cruel persecution was fresh in the memory of the Saints, when the blood of the Prophet Joseph Smith and the ruins of Nauvoo called for vengeance, and when the organization of the Danites, the avengers of blood, was the strong arm of the Latter-day Church. It was quite in accordance with the blind and fanatic obedience to the direction of the leaders of the church that the slaughter of an entire company of emigrants, men, women and children, should be undertaken and carried out remorselessly, the boldest deceit and the most contemptible treachery being considered not only justifiable, but praiseworthy as means of luring the enemies of the revealed religion to their death. This has been the gravest blot on the chronicle of Mormon enterprise; and as the institution itself is crumbling under the advance of Eastern civilization, it is proper that this terrible mystery shall yield up its secret.—Boston Post.

OPINIONS OF THE JURY.

The jury in the case of Bishop John D. Lee, accused of participation in the Mountain Meadows Massacre, failed to agree, and was discharged. No one was surprised at the result. It was just what was expected. Lee had the intense support of the Mormons, who contribute the great majority of the population in Utah, and the prosecution labored under great disadvantages. The jury stood nine for acquittal and three for conviction, which is the same as in the other and still more celebrated case at Brooklyn. It would be a waste of time and money to attempt to bring the Mountain Meadows assassins to justice. They have too strong a following. The church of the Latter-day Saints is bound to stand by them. To convict Lee would be to convict the church, and strike a fatal blow at its very foundation. Of course, whatever perjury, bribery or "pressure" of any kind may be necessary to his escape from justice, will be furnished without hesitation. The developments on the trial were such as to satisfy every reasonable man that Lee was implicated in the massacre, and that the horrible deed was perpetrated in accordance with the policy of Mormonism.—Leavenworth Times.

A disagreement of the jury, nine standing for the defendant and three for the prosecution, is by no means equivalent to an acquittal. The question whether

John D. Lee was a leader in the Mountain Meadows Massacre is still an open one. As there is no legal obstacle to his being put on trial again, we hope that he will be tried for the second time without delay. There are other Mormons against whom legal proceedings should be taken. Lee is reported to have said that "his counsel were defending some person not in Court." Who is that person? Perhaps a good way to find out is to bring on the case against Lee again and push it vigorously. The next time he may insist upon having a counsel who will defend him and nobody else, and who will not hesitate to make the defense as strong as possible, even if its full disclosures should prove damaging to "some person not in court." Lee himself, when he sees that the government is determined that he shall not escape, may try to mitigate the consequence of his crime by furnishing evidence to convict his associates. That the outside "person" defended by Lee's counsel is some one conspicuous in the councils of the Mormon Church, is suggested by a paragraph which we republish to-day from the Virginia (Nevada) Enterprise. The defendant's principal lawyers are "regularly retained attorneys by the Church by the year," and during the recent trial were in frequent consultation with its leaders.

Upon any theory the case should be tried again, and even if it should prove impossible to secure a verdict, evidence may be procured to settle the question how far the Church of Latter-day Saints is responsible for the murder of the emigrants.—New York Eve. Post.

The trial of the Mormon Bishop, Lee, accused of being one of the instigators of that act of wholesale assassination known as the Mountain Meadows Massacre, has attracted the attention of the whole country. All the circumstances of the trial have been strange. The jury was composed largely of Mormons, and contained—so the telegraph reported—several who were relatives of the accused. The defendant endeavored to throw the blame of the murder upon the Indians; but a chief asserts that Lee bribed the Indians to help in the killing, by the promise of clothing, guns and horses, and that the Indians had no personal hostility against the emigrants. Some of the Mormon witnesses swore that they had lived near the Mountain Meadows a great many years and had never heard about the massacre. An effort was made to show that Brigham Young was not connected with the atrocity, but it is not known here whether he has been able to clear his skirts entirely. Of the atrocity of the massacre there is no doubt. Many of its details have been known for years, nor has it ever been attempted to charge it upon the Indians, uninstitigated by white men. How far this trial and others which may follow it may fix the guilt upon the Mormon leaders of Salt Lake, remains to be seen. The disagreement of the jury in the Lee case was expected, and settles nothing, except that it will be difficult to get justice done upon the actual murderers.—N. Y. Herald.

The jury in the case of the Mountain Meadows Massacre has been discharged, unable to agree. This disposition surprises nobody, inasmuch as it was not expected the jury would reach a verdict. The facts, however, have reached the country, and the end of the matter "is not yet."—Helena (Montana) Independent.

The jury in the case of John D. Lee at Beaver, Utah, after being out four days, reported on Saturday that they could not agree, and were discharged—rumor representing them as standing nine for acquittal to three for conviction, two of the latter Mormons and one Gentile. Nothing else, but disagreement was expected or could have been expected from a jury of four Gentiles and eight Mormons, unless the church party should conclude to sacrifice Lee as a scape-goat for the sins of the people. The prosecution, indeed, merely hoped for a judicial investigation, such as would put the undeniable facts in the face of the Mormons and of the world. This has been satisfactorily accomplished, and, if the church has ever been able to throw doubt on it or to ignore it heretofore, it must henceforth recognize the Cain mark upon its body.

The disagreement of the jury in the trial of John D. Lee, the leader in the horrible Mountain Meadows Massacre in 1857, is not a matter of much surprise, the large majority of the jury being known to be Mormons. If ever the result of a trial was at open variance with the tenor of the testimony, that of the present one certainly is. There are rumbling menaces across the Territory of Utah that the memory of the hundred and twenty odd victims of Mormon treachery and cruelty shall not remain unavenged, and it is far from probable that the lightnings which Brigham Young thinks he has drawn from this dark cloud are only collecting in another quarter to strike with fatal effect at a later time. Utah is described as being in a complete ferment over this trial, and its futile result will not have any influence in quieting the commotion. The Saints are boiling over with rage at the disclosure, and the Gentiles are hot with just indignation over the proofs of Mormon guilt. No such cold-blooded massacre of civilized beings was ever recorded in this country. The confession of Lee himself; the testimony of the Mormon witnesses; the denial of the Indian chief; the corroborating circumstances that form a chain of evidence in which not a link is wanting; these in detail are enough to silence further protestations and denials, and to close every avenue of escape for the wretches who are the responsible authors of this shocking human sacrifice. It only makes it all the worse for Mormondom that for the time it is able to parry the verdict which the sworn narration has established in every mind. The followers of that strange religion imagine it possible now to suppress the forces that rule public feeling around them, and, indeed, throughout the country; but they will live to find that they have exploded a mine instead, that for eighteen years has been burrowing beneath their cruel system. If anything on earth should impel civilization itself to rise in judgment on this barbarous power, it is the revelation which this trial of Lee has spread before all men's eyes. If, for pretended religious zeal or for any reason, a peaceful party of emigrants, going from one part of the country to another, may be wantonly slaughtered by the inhabitants of any State or Territory they happen to traverse, an entirely new order of things has come in, and it is time to make the appeal that promises to be effective.—Boston Globe.

The failure to agree on the part of the jury in the trial of John D. Lee at Beaver, Utah, occasions no surprise throughout the country; in fact, such a result was generally anticipated, notwithstanding the evidence adduced was amply sufficient to convict him and several others in authority, of the most heinous crimes. If ever a man should be convicted and punished upon evidence, he certainly should have been. But such a finding from a jury, eight of whom were of the Mormon faith, could not, in the light of former experience, have been expected. But the labor expended in unearthing the damning villainy which led to, and accomplished the murder, in cold blood, of one hundred and thirty men, women and children, will not be lost. The unwilling testimony extorted from lips that sought to condone the crimes they were forced to disclose, has laid bare the secret workings of the Mormon Hierarchy in all their hideousness, and, in the minds of the American people, fastened the guilt of that most horrible butchery where it justly belongs; and all attempts to extenuate its baseness or screen the Mormon leaders from the legitimate fruits of their treacherous cruelty will prove abortive.—Elko (Nev.) Independent.

The prosecutors of Lee, the Mountain Meadows murderer, are endeavoring to procure a change of venue for his second trial, and his attorneys have agreed to have their client's cause confided to a Salt Lake jury. In view of the causes which affected a disagreement at Beaver, it might well be considered a jumping from the frying pan into the fire, to attempt to procure a conviction immediately under Brigham Young's nose, for a crime of which the prophet was much more than a mere accessory. If this murderer by wholesale, who shares with the Mormon leaders the guilt of butchering one hundred and twenty people, is permitted to escape punishment, there may as well be an entire stop put to all administra-

tion of justice in any part of the country. For what is the advantage of hanging a poor wretch for having, when aggravated by some tremendous wrong, taken a single life, when the saints of latter-day faith are allowed with impunity to murder without provocation scores of men, women and children at their sweet will? The divinity which the law hedges around a criminal in this case should be rendered powerless, for the Mountain Meadows Massacre was a crime of too great magnitude to be dealt with by the feeble justice of courts. The general government would do its duty, its whole duty, and nothing but its duty, if it declared Utah under martial law, and tried and convicted by military commission the entire galaxy of much married murderers, from Lee to the patriarch himself. —Denver (Col.) News.

TO THE EDITOR OF THE BOSTON GLOBE:

SIR.—I ask the Christian people of the United States to read the news that comes to-day from Utah—John D. Lee is acquitted! This man confessed that he led the Mormons who massacred in cold blood the American emigrants, one hundred and thirty souls, who attempted to cross Utah in 1857, on their way to California. His crimes have been proved by every witness called, by the mouths of the miscreants he led, and not one person took the stand to defend him. It was shown that he reddened his own hands with the warm blood of women. He acted under the orders of Brigham Young and his Lieutenant, George A. Smith. And yet he has been allowed to go at large! The blood of the murdered Americans and their wives and daughters and little ones that cries out for vengeance has been spit upon by the remorseless despotism that rules Utah, and uses President Grant as its tool, to-day. —Mrs. Ann Eliza Young.

Though the jury in the case of the Mormon Lee failed to agree, as was expected—it being composed of nine Mormons and three Gentiles—it does not alter the facts that the massacre at Mountain Meadows has been traced to the guilty parties, and that before the world the Mormon Church, as represented by Brigham Young, stands convicted of one of the most horrible crimes in history. The ex-Bishop of the Church who testified, told his story clearly, and the story was not disproved. Before any other jury than one pledged to acquit, his evidence alone would have been sufficient to convict. He was with the Mormons when they consulted about the massacre. He saw the preparations, and warned them against such inhuman butchery. He saw the act of treachery by which the emigrants were lured from their stockade and murdered, and saw the spoils, the blood money, distributed among the Mormon families. He heard the comments of Brigham Young, and was himself warned by the latter to lisp no word of the awful deed. As we said, this testimony stands unrefuted. It is, indeed, confirmed by various other witnesses, until the truth of the guilt of these so-called Saints is no longer to be doubted. Yet a Mormon jury acquit them. We suppose there is no way under the law to exclude men who swear to their qualifications as disinterested jurors, but could anything be more farcical than an attempt to convict one Mormon before others of his faith? Why trifle with justice in this manner? It is to be hoped that the time will speedily come when all such shams may be done away with. The investigation, however, has resulted in fixing an indelible stain upon the Mormon Church, and settling the responsibility for an act of barbarism which was even regarded as a reproach by the lawless savages of the West, who are supposed to know no shame nor pity, but who protested against the infamy of such a deed. —Chicago Inter-Ocean.

This notable trial has finally ended as everybody predicted, in a disagreement of the jury. We stated last Tuesday that report said the jury stood nine for conviction and three for acquittal, it should have been the other way. The Mormon jurors were for acquittal first, last and all the time. Some papers say there were eight, while others say there were nine Mormons on the jury, and probably the latter is correct. We have given the substance of the testimony on both sides,

and we do not believe that any candid person will doubt for a moment that these emigrants were murdered in cold blood by Lee and his bandits, through orders from Brigham Young and his priesthood. The extract which we publish in another column from Brigham Young's sermon preached about a year prior to this massacre, on blood atonement, shows that putting to death transgressors is a part of their religion. It is hardly possible to put the language any stronger than Brigham put it. He tells his people that covenant breakers are worthy of death, and then tells them not to call on the Lord to do their dirty work, but to do it themselves. He says: "It is their right to baptize a sinner to save him, and it is also their right to kill a sinner to save him." He teaches this as a part of their religion, pretends to quote scripture to prove it, and appeals to the Constitution of the United States to show that they have a right to worship according to the dictates of their own conscience and have a right to carry out their own religion. It was this teaching that inspired his followers to commit this horrible butchery at Mountain Meadows. The man who teaches such a doctrine is worse than a murderer. No civilized nation in this nineteenth century except the United States has tolerated such teachings or allowed them a respectable footing within their borders. The reason the Mormon heresies have gained strength in our midst is because we have not opened our eyes, learned and believed the true character of this priesthood. This circumstance is so enormous and the character of the crime so heinous, and the evidence so plain, that it must and will be laid at the door of the Church with Brigham Young as its leader, and be remembered by every man, woman and child wherever the name of Mormon is mentioned.—Idaho (Mon.) Statesman.

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We sometimes, being short-sighted mortals, despair of the ultimate triumph of righteousness in the earth. Twenty years ago the prospect of human liberty, as the right of every man in our country, seemed gloomy, and no one could see how, unless God wrought a miracle, a deliverance, the chains of the slave could be unloosed. But freedom came by Providence, and not by direct interposition of the Divine hand. It has seemed about equally impossible to secure the uprooting of the vile system of adulterous Mormonism in the very heart of our land. Every effort thus far has apparently proved abortive, and the government has found it impossible to execute, in that portion of its territory, for some reason, the law of the land. But a divine Providence keeps silently and constantly at work; the nation is not permitted to slumber over this abomination. After eighteen years, the frightful massacre of the men and women of an emigrant train at Mountain Meadows, by the Mormon legion, in company with Indian confederates, and with the knowledge, if not at the instigation of Brigham Young, the leader of the expedition being Bishop Lee, has come to trial. Another Bishop—Smith—who represents himself to have been a reluctant actor in the awful butchery, has turned State's evidence, and tells with blood-curdling details the whole fearful story of the murder of adults and the abuse of the children, who were saved to be educated as Mormons. We do not wonder that the court-room was hushed, while this recital was going on, and that the accused Bishop gave manifest evidence of irrepressible anxiety. It can hardly be hoped, as a part of the jury is composed of Mormons, that a righteous verdict will be given; but the testimony is out, and the moral effect upon the country has been accomplished. It can only be a question of a limited time, and this impure and murderous abomination will be swept from the face of the earth.—*Zion Herald*.

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Saints. * * Mr. Baskin hit the nail on the head in his closing argument for the people. "If there is a man on this jury," said he, "who has been through that sink of iniquity—the Endowment House, and wears endowment garments on his limbs, he will not find a verdict according to the law and the testimony. He has parted with his manhood; when he swore those lewd and blasphemous oaths which bind him a lifelong slave to the Mormon hierarchy, he divested himself of his individuality, and is under obligation to think and act as he is instructed."

The results of the Ricks trial, a few months ago, and of the Lee trial last week, only set this state of things more conspicuously before the public; because of the flagrant perversion of justice perpetrated by the jurors and because of the universal interest which attached to the two cases. Both were murder trials, and in both cases the evidence was convincing and beyond reasonable doubt. In the former case a verdict of acquittal was found; in the other, the eight Mormons on the jury and one apostate Mormon, obstinately refused to bring in a verdict of guilty, and justice, if not thwarted, was delayed.—Salt Lake Tribune.

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